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LEGAL Studies 1020

You and the Law 2: In Society and in
the Workplace



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LEGAL Studies 1020

You and the Law 2: In Society and in
the Workplace



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Legal Studies 1020
You and the Law 2: In Society and in the Workplace
Student Module Booklet
Learning Technologies Branch
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Note: While every effort has been made to make the information in this course accurate, remember that the law frequently changes. This course has been produced for students; it has been written by teachers, not lawyers, and it is not intended to be used as a source of advice for people experiencing legal problems. If you are in need of legal advice, consult a lawyer; do not rely on the information in this course.

This document is intended for	
Students	✓
Teachers	✓
Administrators	
Home Instructors	
General Public	
Other	



You may find the following Internet sites useful:

- Alberta Education, <http://www.education.gov.ab.ca>
- Learning Technologies Branch, <http://www.education.gov.ab.ca/ltb>
- Learning Resources Centre, <http://www.lrc.education.gov.ab.ca>

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WELCOME

Welcome to Legal Studies 1020. We hope you enjoy your study of You and the Law 2.



- Working for Pay
- Equality in the Workplace



- Protecting Society
- Protecting Ourselves and Others



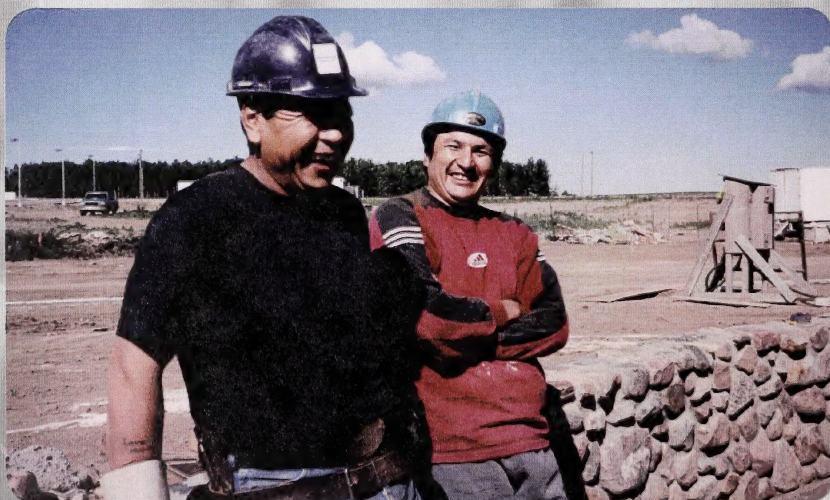
- Our Rights and Responsibilities

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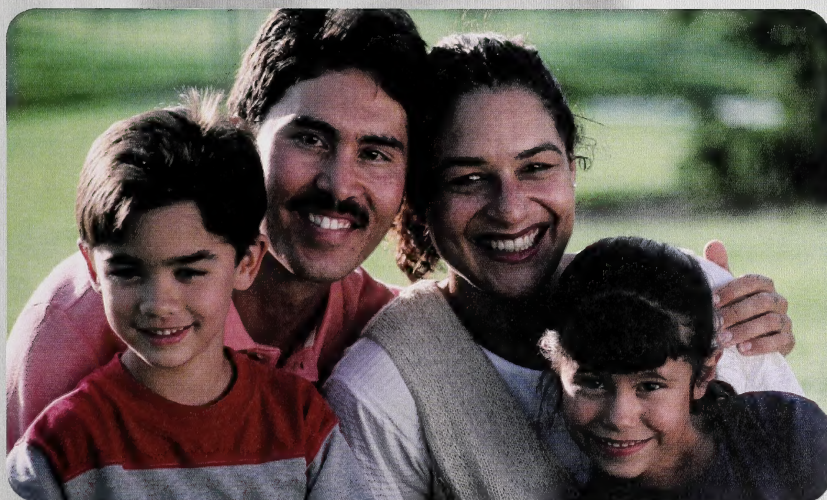
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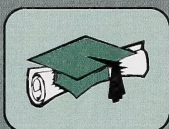
CAREER AND TECHNOLOGY STUDIES INFORMATION

Legal Studies is one of the 22 strands of Career and Technology Studies designed for Alberta secondary students. The optional CTS program will provide you with opportunities to

- investigate career options and make effective career choices
- use technology effectively and efficiently
- apply and reinforce concepts you learned in other courses
- prepare you for entry into the workplace or further learning

The strands in Career and Technology Studies are designed to stand alone or be integrated with other strands or school courses to meet your learning needs.

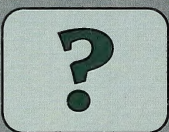
CTS has a number of basic competencies (knowledge, skills, and attitudes) that will be identified throughout by these icons:



Careers: Identify appropriate career linkages within the strand being studied.



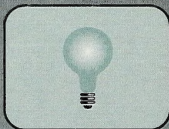
Communication: Effectively present concise written, visual, and oral communications.



Ethics: Make judgements about whether behaviour is right or wrong on personal, community, and global levels.



Technology: Effectively use technology when required.



Innovation: Recognize opportunities and problems, and identify and suggest new ideas.



Task Management: Demonstrate an ability to locate and use resources and an ability to use time effectively.



Teamwork: Work towards goals co-operatively, collaboratively, or independently, and acknowledge the opinions of others.



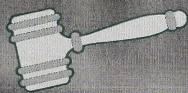
Safety: Assess potential risks, and follow personal and environmental safety procedures.

These basic competencies build skills that are useful in a broad range of lifetime endeavours.

The eight icons described above indicate to you that a basic competency has been identified in a lesson. Note, however, that some of these competencies might relate more to one strand than another, so it might be that not all icons will appear in this particular course.

Note carefully that CTS courses are competency based; you must, therefore, successfully complete each component to receive credit for the course.

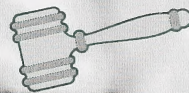
LEGAL STUDIES STRAND INFORMATION



Introductory



Intermediate



Advanced

**Personal
Context**

LGS 1010
You and the Law 1:
As a Consumer and
as a Family Member

LGS 1020
You and the Law 2:
In Society and
in the Workplace

**Societal
Context**

LGS 2010
Family Law

LGS 2020
Labour Law

LGS 2030
Environmental Law

LGS 2050
Law and the Traveller

LGS 3010
Consumer and Property Law

LGS 3020
Dispute Resolution

LGS 3040
Negligence

LGS 3050
Law and Small Business

LGS 3060
Controversy and Change

LGS 3070
Landmark Decisions

LGS 3080
Criminal Law

-- Recommended sequence

Some of these courses may not yet be in a distance learning format.

LEGAL STUDIES 1020

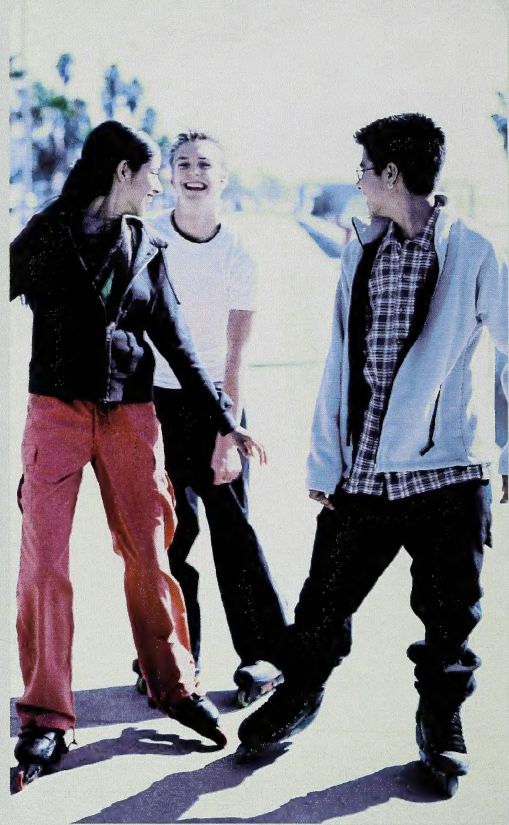
OVERVIEW

Imagine the following scenarios:

- You're hanging out downtown with a couple of friends. All at once a police car pulls up beside you, an officer steps out, and you suddenly find yourself being taken to the police station for questioning about a burglary in the neighbourhood.
- You're working at your first job, doing your best, and hoping to get a pay raise soon. One day the boss walks up to you, tells you you're fired, and orders you to leave the premises at once. You aren't given a reason and you're told there'll be no severance pay.
- You're looking for an apartment and you finally come upon one that seems just right. The problem is that the landlord says he only rents to people of his own ethnic group and religion.

Would you know your rights in these three cases? When you've finished this course you should.

Section 1 looks at protection offered in Canada, and the province of Alberta in particular, for basic human rights while Section 2 examines more closely the rights and responsibilities of people in the workplace. Finally, Section 3 investigates the basic concepts of criminal and civil law, looking in particular at how criminal law affects young people.



Legal Studies 1020

You and the Law 2: In Society and in the Workplace



Section 1
Rights and Responsibilities



Section 2
Protecting Workers' Rights



Section 3
Protecting Society and Ourselves

Assessment and Feedback

This course is worth one credit and is comprised of three sections. Within each section, your work is grouped into lessons. Within the lessons, there are readings, explanations, and questions for you to work through. You'll correct your work yourself using the suggested answers that follow each lesson. These suggested answers will provide you with immediate feedback on your progress.

Accompanying this Student Module Booklet are two Assignment Booklets. You'll be referred to the assignments in these booklets from time to time as you work through the course—frequently at the end of a section. Your work in these booklets will be submitted to your teacher for assessment, and at least a portion of your grade will be based on them. The mark distribution is as follows:

Section 1 Assignment	30 marks
Section 2 Assignment	30 marks
Section 3 Assignment	40 marks
TOTAL	100 marks

Be sure to check with your teacher if this mark allocation is valid for you. Some teachers like to include other reviews and assignments.

In addition to your assignments, you will likely be required to complete a final test. The weighting for this final test will be determined by your teacher.

Resources

In order to complete Legal Studies 1020, you'll need the following resources:

- the course textbook, *All About Law*, fifth edition, by Gibson, Murphy, Jarman, and Grant (Thomson/Nelson Canada, 2003)
- a notebook or binder in which to respond to questions asked in this Student Module Booklet

You should have access to a computer and complete your assignments with a word-processing application wherever possible. As well, you should arrange to have access to the Internet. Though it won't be mandatory, some Going Further activities may direct you to watch a live or recorded television show.

LearnAlberta.ca

LearnAlberta.ca is a protected digital learning environment for Albertans. This Alberta Education portal, found at <http://www.learnalberta.ca>, is a place where you can support your learning by accessing resources for projects, homework, help, review, or study.

For example, LearnAlberta.ca contains a large Online Reference Centre that includes multimedia encyclopedias, journals, newspapers, transcripts, images, maps, and more. The National Geographic site contains many current video clips that have been indexed for Alberta Programs of Study. The content is organized by grade level, subject, and curriculum objective. Use the search engine to quickly find key concepts. Check this site often as new interactive multimedia segments are being added all the time.

If you find a password is required, contact your teacher or school to get one. No fee is required.

Visual Cues

As well as the CTS basic-competency visual cues presented earlier, from time to time you may encounter the following cues or icons in the margin of this Student Module Booklet. Be sure you understand what they're prompting you to do.



Textbook



Internet



Television

Remember that any website address given in this course is subject to change.

Strategies for Completing This Course

Organize your materials and work area before you begin. Be sure that you have everything that you need. You should also have a quiet area in which to work, away from distractions. Create a schedule for yourself, and display it as a reminder.

Because one of the basic competencies of the CTS program involves skills in working with others, you're encouraged to work with a partner throughout the course if possible. Your partner can be a friend, classmate, or family member. You don't need to work with the same partner all of the time. If you can't work with a regular partner, it would help if there were someone—a family member perhaps—with whom you can work from time to time.

The Going Further boxes that you'll encounter in the Student Module Booklet signal optional enrichment material. Going Further provides opportunities for you to investigate or research a topic or concept that you've explored in the lesson and that particularly interests you. Going Further may also give you a chance to apply your knowledge and skills in a practical way. You're encouraged to read the Going Further suggestions and to attempt these enrichment activities whenever possible.

To achieve success in this course, be sure to read all the directions carefully; work slowly and systematically through the material in the Student Module Booklet. This approach will ensure that you're prepared for your assignments. Try to set realistic goals for yourself each day and each week so that you'll complete the course in a reasonable time. Do your assignments regularly, and don't forget to review and proofread your work before sending it to your teacher. Careful work habits will greatly increase your chances for success in Legal Studies 1020.

SECTION 1

Rights and Responsibilities



It's a free country! I know my rights!

How often do you hear people saying things like this? But do they really know their rights? What about their responsibilities?

Do you always have to wear seatbelts when travelling in a car? Can you say or write whatever you like about your friends and neighbours? If you're a smoker, can you light up wherever you choose? Must you accompany a police officer when asked? What happens if your rights to do what you want conflict with the rights your community has to security?

In this section you'll investigate questions like these. When you're finished the section, you should be able to explain why individual rights need protection, describe the relationship between rights and responsibilities, and identify the important rights and responsibilities of minors.

Lesson 1: Why Protect the Rights of Individuals?



Take a look at the following three scenarios:

- The promotion you deserve at work goes to someone else, and you're convinced that it's because you're a woman.
- You want to rent an apartment, but the landlord refuses to rent to you because she's found that single males often have rowdy parties.
- You're refused admittance into a restaurant because the owner dislikes your particular ethnic group.

You're no doubt aware of behaviour of this sort; it's pretty hard to live in our society and not to have heard of the struggles different groups sometimes face to achieve equality of treatment.

Although the problem is far from solved, it's true that tremendous strides have been made in recent decades in the effort to eliminate **discrimination**. Most countries in the world now recognize the basic **rights** of individuals, and Canada has gone

further than most countries in this respect. As a group, Canadians feel that individual rights should be protected from discrimination; most Canadians take pride in the laws that offer this protection and believe that they make our country a better place to work and live.

1. Have you or anyone you know ever been discriminated against? If so, describe the situation and explain how it made you (or the person involved) feel.

discrimination:
the practice of
treating some
people differently
from others
because of
prejudice toward
a group to which
they belong

right: a power or
privilege granted
by the law

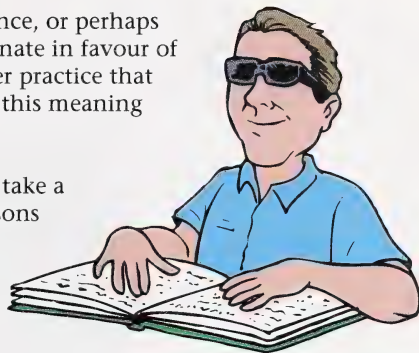
Turn to the Suggested Answers at the end of this lesson
and read the helpful hints suggested there.

Discrimination is no doubt a word you're very familiar with. As you saw in the margin definition, it involves treating some people differently from others because of a characteristic—generally entirely irrelevant—shared by members of a group to which they belong or that is believed to be shared by members of that group.

This characteristic might be skin colour, for instance, or perhaps age, religion, or gender. Though you can discriminate in favour of someone or against someone, it's usually the latter practice that people think of when talking about the issue; it's this meaning that will be used here.



2. Without looking at the material that follows, take a couple of minutes and try to list as many reasons people have for discriminating against others as you can. If you have a study partner, brainstorm your list together.



Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

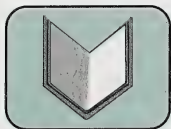
You likely came up with quite a few ideas in your list for question 2. There are, of course, many reasons why people suffer discrimination, and they can vary from place to place and country to country. What follows is a list of some of the most common reasons. You may have come up with a few more.

- race (used here to include ethnic background, colour, and ancestry)
 - language
 - religion
 - citizenship (officially belonging to a country)
 - political beliefs
 - gender (including the condition of pregnancy)
 - sexual orientation
 - marital or family status
 - disability
 - poverty and/or source of income
 - past criminal offences
3. a. For each basis for discrimination in the preceding list, describe a typical scenario, real or made up, in which a person is being discriminated against. The first two have been done as examples.
 - Race: *Not too long ago African-American people in parts of the United States were forced to use different public washrooms from Caucasian people.*
 - Language: *In Canada there were schools in which Native Canadian children were punished if they spoke in their own languages.*

- b. Now reverse the process. The scenarios in the left-hand column of the chart that follows illustrate either discriminatory action or the potential for discriminatory action. For each scenario, identify in the column on the right the basis for the discrimination.

Scenario	Group
The landlord of a building refuses you lodging on the grounds that he can't communicate with you because you don't speak English well.	
The owner of an Asian restaurant prefers to hire Asian servers to create an authentic atmosphere.	
Adrienne is pregnant when she applies for a job, so she's refused employment.	
Carter is a member of the Rhinoceros Party of Canada and has been rejected for upper-level positions at his place of employment as a result.	
Mike and Cheryl are living together, and they're having difficulty finding an apartment.	
Harold is seeking employment as a receptionist and is having difficulty even though he's well skilled.	
Celine was charged with drunk driving when she was 20 and is now forced to reveal this information on a job application.	
Horst is a diabetic and is applying for a position as a firefighter.	
Suzanne is on social assistance and can't get a job.	
Yujin has been rejected for a training program because she's newly married and might have children.	

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.



Discrimination is a problem that isn't easy for lawmakers to solve; it will be around until people's attitudes change—and that's a difficult thing to accomplish quickly. But what causes discrimination? For a brief discussion, turn to page 59 of your textbook and read the material under the headings "Prejudice and Stereotyping" and "Discrimination"; then answer the questions that follow.

4. Explain the difference between stereotyping, prejudice, and discrimination.
5.
 - a. Give examples other than those in the textbook to illustrate the difference between intentional and unintentional discrimination.
 - b. Intentional discrimination can be difficult to prove. Why would this be true?

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

I can see how people's rights can come into conflict. I mean, let's say I run a small business and a couple of times in the past when I've hired women, they've gone on maternity leave within a year. I'd figure, hey, this is my business and I can't afford to go on taking a chance on female employees. It's my right to hire anyone I want to.



But that would discriminate against me if I applied to your business for a job. I have rights too!



Those are good examples of the difficulties involved. In this case, the law would support you, Cheryl, but in doing so, yes, it takes rights away from you, Chen. Lawmaking always involves striking a balance—and not everyone agrees on where the balance should be.



In this lesson you've taken a brief look at some of the reasons why laws are needed to protect individuals' rights. In the next lesson you'll examine some of the laws that do just this.

Suggested Answers

1. Answers will be personal. If the situation you described happened to another person, you may have had to imagine how it made that person feel; but one thing that's certain is that suffering from discrimination is always a very demoralizing experience.
2. Compare your list with the one following question 2 in the lesson. Did you think of any other reasons people have for discriminating against others?

Most of the reasons given in the lesson list will be familiar to you, but there may be a few you've never considered. Citizenship is one possibility. In the past in Canada, citizenship was used to exclude people from certain jobs and social activities; if you weren't a Canadian citizen, you couldn't work or participate.

Another reason for discrimination you may never have considered—especially if you're male—is pregnancy. Many employers, for instance, might not hire a pregnant woman because they'd figure she'd only be on the job for a few months. Source of income is another reason you might not have thought of, but people on social assistance, for instance, have frequently suffered discrimination in our society.

3. a. Scenarios will, of course, all be different. It shouldn't have been too hard to come up with an example of discrimination for most reasons on the list. You might try comparing your list to the one that follows.

- Race: *Not too long ago African-American people in the United States were forced to use different public washrooms from Caucasian people.*
- Language: *In Canada there were schools in which Native Canadian children were punished if they spoke in their own languages.*
- Religion: Jews were systematically killed by the millions in Nazi Germany.
- Citizenship: People living in Canada without Canadian citizenship were excluded from some jobs and organizations.
- Political beliefs: In the former Soviet Union, people speaking out against communism were frequently arrested and imprisoned.
- Gender: Employers have discriminated against qualified male job applicants in order to be seen increasing the number of women on their payrolls.
- Sexual orientation: Colleges have fired openly homosexual instructors because they disapproved of their lifestyles or feared their lifestyles would reflect badly on the colleges.
- Marital or family status: Unmarried women with children have been turned down for employment because the employers disapproved of premarital sexual relations.
- Disability: People in wheelchairs have found it impossible to gain access to public buildings because they lacked appropriate ramps, doors, and elevators.

- Poverty and/or source of income: People on welfare have been caught in a vicious circle where they're refused jobs because they're perceived as lazy while being stereotyped as lazy because they don't have jobs.
- Past criminal offences: People with criminal records have been refused accommodation because landlords are afraid other tenants will object.

b.

Scenario	Discriminatory Group
The landlord of a building refuses you lodging on the grounds that he can't communicate with you because you don't speak English well.	language
The owner of an Asian restaurant prefers to hire Asian servers to create an authentic atmosphere.	race
Adrienne is pregnant when she applies for a job, so she's refused employment.	pregnancy (and gender)
Carter is a member of the Rhinoceros Party of Canada and has been rejected for upper-level positions at his place of employment as a result.	political beliefs
Mike and Cheryl are living together, and they're having difficulty finding an apartment.	marital status
Harold is seeking employment as a receptionist and is having difficulty even though he's well skilled.	gender
Celine was charged with drunk driving when she was 20 and is now forced to reveal this information on a job application.	past criminal offence
Horst is a diabetic and is applying for a position as a firefighter.	disability
Suzanne is on social assistance and can't get a job.	source of income
Yujin has been rejected for a training program because she's newly married and might have children.	gender

4. Prejudice and stereotyping are two sides of the same coin. Prejudice involves prejudging people because of a group they belong to while stereotyping means thinking of all people of a specific group as having a certain quality—for instance, being lazy, greedy, or dishonest.

Discrimination occurs when someone takes action based on prejudice and treats a person differently from others because of a stereotyped view. For instance, a prejudiced person who believes the stereotype that women can't do heavy physical work might deny a woman employment without ever putting her abilities to the test.

5. a. Examples will vary. Compare yours to the ones that follow:

- intentional discrimination:

- An employer promotes one worker over a colleague with superior abilities and experience because the promoted worker goes to the employer's church.
- A landlord refuses to rent an apartment to a single, 19-year-old male, believing that young men often have loud parties.

- unintentional discrimination:

- A business decides to open its stores on Sundays and says all its employees must take regular Sunday shifts or lose their jobs. An employee whose religion strictly forbids her to work on Sunday is fired.
- An employer is willing to hire workers with physical disabilities, but the work site is set up in such a way that no one in a wheelchair can do the job.

- b. Intentional discrimination can be difficult to prove because the offender can lie about why a decision was made. An employer not wanting to hire a disabled person might, for example, simply claim that another applicant had better credentials or was more impressive during the job interview.

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Lesson 2: Human Rights Legislation



Human Rights in Canada and Alberta

human rights: rights that protect people from discrimination from others in certain areas of life

legislation: a law or laws that have been passed by a governing body like Alberta's Legislative Assembly or the Parliament of Canada

statute: a specific law or act passed by a governing body like Alberta's Legislative Assembly or the Parliament of Canada

The term **human rights** is one you've probably heard frequently, but do you know just what it means? Put simply, human rights are rights protecting people from discrimination from other people. Laws designed to protect our human rights are designed to ensure that everybody is treated equally in certain areas of life and that we all have access to certain places, services, and opportunities.

Legislation exists at both the federal (Government of Canada) and provincial levels to protect people's human rights. The federal statute is the *Canadian Human Rights Act*, while in Alberta the provincial statute is the *Human Rights, Citizenship and Multiculturalism Act* (which replaced the *Individual's Rights Protection Act* in 1996). It's this provincial *Human Rights, Citizenship and Multiculturalism Act* that you'll be looking at most closely here.

To get a basic understanding of how human rights legislation works, turn to page 60 of your textbook and read section "2.7: Human Rights Legislation" down to the questions on page 62. Skip the material in the purple and yellow sidebars. When you've finished reading, answer the following questions.

1. Imagine that a provincial government passes a law allowing landlords to pick and choose whatever tenants they want, but the human rights legislation in that province offers renters protection from discrimination on the basis of race. Mr. Loitz, a landlord who holds some negative stereotypes, refuses to rent an apartment to Sue because she's Native, and Sue decides to fight this decision. Who would win? Explain your answer.
2. In point form, outline the process involved in hearing a human rights complaint.



3. Now read the case study *Canadian Union of Public Employees (Airline Division) and Canadian Human Rights Commission v. Canadian Airlines International and Air Canada* in the yellow sidebar at the bottom of page 61. This is a summary of an actual case that occurred in 1998 (the *v.* by the way, stands for *versus*). Because this case involves an area under federal control, it was decided on the basis of the *Canadian Human Rights Act*.

Read the case carefully—at least twice. Then answer the three questions that follow it in the textbook.

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

In Alberta, the *Human Rights, Citizenship and Multiculturalism Act* has established the Alberta Human Rights and Citizenship Commission. This body administers the *Act*; in other words, if you think that your human rights have been violated, you should file a complaint with this commission. It will conduct an investigation in the manner explained in your textbook. Ultimately, the case may end up in the courts, as you've seen, or it may be resolved before that stage.

4. Salome uses a wheelchair. She's been looking for a place to live close to her place of work and the gym where she plays basketball, and arranges to speak to the landlord about renting an apartment. When Salome arrives, she notes that there's no wheelchair access to the building. On pointing this out, the landlord simply says, "That's right. I guess this place wouldn't be suitable for you." Feeling that she's being discriminated against, Salome files a claim with the Human Rights and Citizenship Commission.



- a. Do you think that Salome probably has a legitimate claim according to the *Act*? Explain why or why not.
- b. Do you think her claim should be legitimate? Give your reasons.

As already noted, the case can be made that human rights legislation infringes on some people's rights while protecting the rights of others. It can be argued, for example, that landlords should have the right to rent their premises to people they choose to and that if employers don't like people of certain ethnic groups or religions, they should have the right not to hire them. After all, it's their businesses and their money.

5. What are your views on this issue? Be sure to back them up with reasons. If possible, debate this question in a group or with a study partner.



6. In case you had difficulties with the preceding question, think about the situation described here.

Miss Lavallée owns a small teashop, and she recently hired a server who belongs to a visible minority group. Because Miss Lavallée has no prejudices herself, she was shocked when some of her regular customers began complaining about her new server. The fact that the server was the most reliable and hard-working employee Miss Lavallée had ever hired made things even harder to understand. However, afraid of losing business, Miss Lavallée told her server that she'd either have to work back in the kitchen at a reduced wage or leave the job completely. The server took the case to the Human Rights Commission, and won.

Were Miss Lavallée's rights infringed on in this situation? If you answered yes, explain how.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

The Evolving Nature of Human Rights

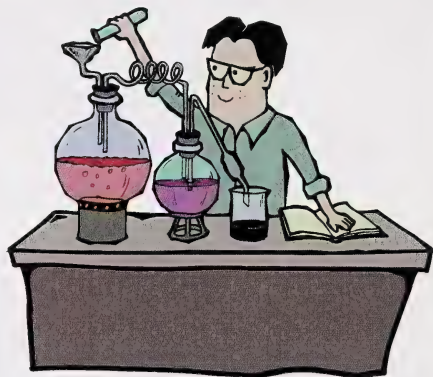


If you were to look at Alberta's *Human Rights, Citizenship and Multiculturalism Act*, you'd find that it offers protection against discrimination in a wide range of areas based on "the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or class of persons." That covers a lot of territory, but human rights is an evolving concept; and since the statute was passed, a lot of public attention has been focused on discrimination based on sexual orientation—something not mentioned in the *Act* at all (unlike Ontario's *Human Rights Code* as you can see on the bottom of page 60 of your textbook).

Things came to a head in Alberta in 1991 when a church-affiliated college in Edmonton fired an openly gay lab instructor. The position of the college was that the instructor's lifestyle ran counter to the core values on which the school was based. The lab instructor, meanwhile, feeling that he had suffered a human rights violation, appealed to the Alberta Human Rights and Citizenship Commission; but because there's no mention of sexual orientation in the *Human Rights, Citizenship and Multiculturalism Act*, the commission refused to investigate the complaint.

As a result, the instructor turned to the courts and won his case. Recommendations were made that the Alberta government add sexual orientation to its human rights legislation, but the government chose not to and, instead, appealed the court's decision to a higher court. In other words, the government asked a higher court to review the decision, hoping that this time the decision would be different.

Eventually, this case ended up in the Supreme Court of Canada—the highest court in the country. In April of 1998, the Supreme Court sided with the fired instructor, saying that in not providing human rights protection for discrimination based on sexual orientation, the Alberta's legislation violated *Canada's Charter of Rights and Freedoms*—a document you'll be looking at in the next lesson. The court insisted that from now on protection of this sort must be “read into” Alberta's *Human Rights, Citizenship and Multiculturalism Act* even if it isn't explicitly stated in the Act itself.



This case clearly illustrates the evolving nature of human rights protection. It also shows some of the problems involved. Perhaps you agree with the decision of the Supreme Court; after all, the instructor's private life had no bearing whatsoever on the performance of his duties. Or perhaps you feel that the college should have the right to fire employees whose lifestyles fly in the face of its values.



7. What are your views on this issue? Should Alberta's human rights legislation offer protection from discrimination based on sexual orientation? Should the Alberta government change the *Human Rights, Citizenship and Multiculturalism Act* to explicitly include protection from discrimination on this ground? Take a stance and write a short paper defending your position. If you have a study partner, take sides and debate the issue.

Turn to the Suggested Answers at the end of this lesson
and read the helpful hints suggested there.

As you've seen, human rights legislation is still to some degree in a developmental stage. There are always people wanting changes made to it, and, as society evolves, these changes are sometimes made. The important thing is to be aware that protection for most human rights abuses does exist. If you ever think you've been the victim of discrimination, contact the Alberta Human Rights and Citizenship Commission and find out just what your rights are.

Going Further

Try one or more of the following activities:

- If you'd like to learn more about human rights protection in Alberta, go to this address, part of the Government of Alberta's Internet site:

<http://www.albertahumanrights.ab.ca/default.asp>

There, you'll be able to learn a great deal about the legislation and how complaints are handled. If you click on "Legislation and Decisions" and follow the links, you can access the entire *Alberta Human Rights, Citizenship and Multiculturalism Act* itself. You'll also find, before you're given the *Act* to read, the following note; and you'll be one of those people who know just how that note came to be there:

Note: Although it is not expressly stated in the *Act*, as of April 2, 1998, sexual orientation is "read into" the *Act* by the Supreme Court of Canada as a protected ground of discrimination in Alberta.

- Another way to learn more about human rights protection in Alberta is to contact the Alberta Human Rights and Citizenship Commission directly. It will supply you, free of charge, with a package of easily understood information sheets. In the Calgary area call (403) 297-6571, and in the Edmonton area call (780) 427-7661. Elsewhere in the province, use the toll-free number 1-800-432-1838.
- Human rights issues are frequently in the news. Keep an eye (or an ear) on newspapers, news magazines, and on TV and radio newscasts; and when you find an issue being discussed, try to follow it to its resolution. You might consider working on a scrapbook or bulletin-board display of human rights-related stories.
- Earlier, you read on page 61 of your textbook that provincial and territorial human rights laws in Canada are based on the *Universal Declaration of Human Rights*. This document was adopted by the United Nations after World War II in an attempt to guarantee basic human rights to people all over the globe. While this declaration has raised awareness of human rights issues internationally, it isn't a law; the United Nations can't simply walk into any country and enforce it. Still, the *Universal Declaration of Human Rights* does put pressure on governments to ensure better protection of the rights of its citizens.



If you'd like to learn more about the *Universal Declaration of Human Rights*, you can read about it on pages 41 to 43 of your textbook. You can also use an Internet search engine to run a search for the declaration; just use *Universal Declaration of Human Rights* as a keyword. Among other things, you'll certainly find the entire text of the declaration itself.

- Your textbook has a wealth of information about the struggles of a number of disadvantaged groups to obtain fair and equal treatment as Canadian Citizens—groups like Native peoples, women, the disabled, and homosexuals. While this information goes beyond the scope of this course, you'd do well to read through some or all of this discussion as you think about the human rights issues raised throughout this section. You can find the information on pages 67 to 96 of your textbook.



Suggested Answers

1. Sue would win the case because provincial human rights statutes have supremacy over all other provincial statutes. If there's a conflict, the human rights legislation wins.
2. Outlines will vary slightly, but they should look more or less like the one that follows:
 - A complaint is filed with the Human Rights and Citizenship Commission.
 - An officer interviews the person complaining.
 - If the situation seems legitimate and the complaint was lodged in time, an investigation will take place. The investigating officer will interview the complainant (the person bringing the complaint), the respondent (the person against who the complaint is made), and any witnesses. Perhaps a formal statement will be prepared and forwarded to the respondent.
 - If the problem can't be resolved easily, conciliation takes place—a meeting between the two parties to try to resolve things peacefully.
 - If this fails, a board of inquiry is appointed and the parties present their cases.
 - The board makes an order to resolve the situation.
 - If the respondent refuses to obey an order, criminal charges will be laid. If either party is unhappy with the board's decision he or she can appeal to the courts.

3. **Textbook question 1:** The issue is whether or not the wages of flight attendants were discriminatory given that they were lower than those of other groups of airline employees. Flight attendants were predominantly female while other groups were predominantly male. The work of flight attendants, it was claimed, was of equal value to that of other groups.

Textbook question 2: It was ruled that because the different airline employees had separate unions that had negotiated separate collective agreements, they weren't technically working in the same *establishment*. The law said only that it is discriminatory to have different wage scales for work of equal value for employees working in the same establishment.

Textbook question 3: The flight attendants would have had to show that their work really did contribute a value equal to that of other groups like pilots or technicians. If they had been able to demonstrate this to the satisfaction of the tribunal, and had been held to belong to the same establishment, the flight attendants would have won their case.

4.
 - a. The fact is that according to the *Act*, Salome has no legitimate claim. While all provincial and federal buildings are required to be wheelchair accessible, private buildings don't come under the same rules. Certainly more and more private buildings are becoming wheelchair accessible, and businesses are realizing that it's not only in the public interest but in their own interest to encourage people in wheelchairs to use their services. Still, Salome's case would be dismissed.
 - b. Answers will vary. Most students, having well-developed social consciences, seem to think Salome's claim should be legitimate. However, there is another side to the story. For one thing, if people own property, the question must be asked how far the law can go to interfere with what they do with the property. Another point is that many small businesses simply can't afford to make the changes necessary to make their premises wheelchair accessible.

5. Answers will be personal. Were you able to back up your ideas with convincing arguments? Sometimes human rights issues aren't as black and white as they appear. For instance, most people feel that employers shouldn't be allowed to discriminate along gender lines when hiring, yet employers can present arguments to defend this practice.

Think back, for example, to the discussion between Chen and Cheryl in Lesson 1 about hiring women. Now imagine Mr. X running a small business on a limited budget. In the past few years he's hired two women employees and invested a great deal of time in training them. Each time, just when they were becoming really good at their jobs, they became pregnant and went on maternity leave. By contrast, the men Mr. X has hired have tended to stay on the job for several years. What's more, Mr. X has discovered that while his female employees are every bit as capable and hard-working as their male colleagues, they do tend to take more days off work each year to care for sick children or aging parents.

Most people now reject this sort of thinking. Men leave jobs too, and it's terribly unfair to women to stereotype them as likely to quit soon. Besides, the fact is that society needs children, and women shouldn't be penalized for having them and caring for them. And if women are expected to care for their families to a greater degree than men, shouldn't they be given credit rather than punished? Still, as long as employers like Mr. X fear their businesses may go under if they aren't free to hire the people they want, there will be controversy surrounding human rights laws.

6. Answers will vary. Some people think that employers should have control of the people they choose to hire and how they deploy their workers. After all, for the owner of a small business like Miss Lavallée, these things can make a great deal of difference in the success of the business. On the other hand, generally speaking, Canadian society subscribes to the view that employers shouldn't be able to discriminate against employees on the basis of such things as gender and race. The rights of the employees suffering discrimination, it's widely felt, take precedence over employers' rights to do what they like in their businesses.
7. Answers will be personal. This issue raises strong feelings on both sides; people's religious convictions, philosophies of life, and basic values all come into play. Whatever side you take on this issue, it's important that you back up your position with clearly reasoned ideas. An emotional outburst won't convince anyone.

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Lesson 3: The Canadian Charter of Rights and Freedoms

civil rights: rights guaranteed citizens of a country; in Canada, rights guaranteed by the Canadian Bill of Rights and the Canadian Charter of Rights and Freedoms

common law: the body of law that gradually developed in courts in the English-speaking world based on judges' decisions

precedent: a previous court decision that lower courts must follow when making decisions in similar cases

constitution: a document stating the fundamental rules according to which a country is governed and other laws are made

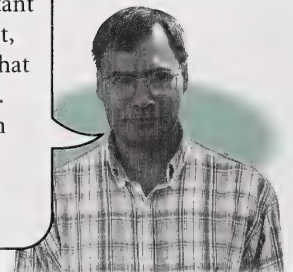


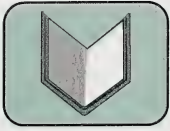
You've almost certainly run across the *Canadian Charter of Rights and Freedoms* in some of your social studies courses. While legislation like Alberta's *Human Rights, Citizenship and Multiculturalism Act* protects people from discrimination at the hands of other people, the *Charter* protects all Canadians from rights violations at the hands of governments and other public organizations. In other words, it guarantees Canadians certain basic civil rights.

In actual fact, rights of this sort aren't new to Canadians; they existed in common law long before the *Charter* became law in 1982. Common law is the body of law that has evolved over the centuries as courtroom judges decided the cases they heard. The judgments they made became *precedents* that later judges were to follow in similar cases; in this way, a large body of judge-made law was gradually created, and many civil rights were created. The problem was, though, that these laws weren't systematically written down in one place and guaranteed.

The first attempt to create a statute guaranteeing Canadians basic civil rights occurred in 1960, when the federal government passed the *Canadian Bill of Rights*; but it was only in 1982 that these rights were entrenched in the *constitution* when the *Canadian Charter of Rights and Freedoms* became the law. In other words, until the *Charter* was created, the Government of Canada could at any time have rescinded rights guaranteed in the *Bill of Rights*. Now, however, those rights are far better protected.

The *Canadian Charter of Rights and Freedoms* is only part of the constitution—according to many people the most important part. Canada, you'll recall, was created back in 1867 by an act, or a statute, of the British government—the *BNA Act*—and that meant that only the British Parliament could alter that *Act*. The Canadian government had no real control over its own fundamental laws. All that changed in 1982 when our constitution was *repatriated*, or brought home. Part of the new made-in Canada constitution was the *Charter*.

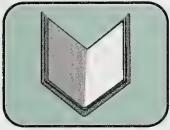




To learn more about the repatriation of Canada's constitution and the creation of the *Charter*, read page 19 of your textbook. Then answer the following questions.

1. For a long time Britain was prepared to turn Canada's constitution over to the Government of Canada. Why did it take until 1982 to accomplish this?
2. How does the *Constitution Act, 1867* differ from the *Constitution Act, 1982*?
3. Today, what has to happen to amend, or change, the constitution—including the *Canadian Charter of Rights and Freedoms*?

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.



Now open your textbook again; this time, turn to page 44 and read section "2.3: Human Rights in Canada After World War II" as far as the heading "Matters Governed by the Charter" on page 46. Then answer the following questions.

4. Which Canadian prime ministers were responsible for the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*?
5.
 - a. Explain why the *Canadian Charter of Rights and Freedoms* offers better protection of civil rights than the *Canadian Bill of Rights* does.
 - b. Explain why the protection of rights provided by the *Charter* isn't unlimited.

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.



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The *Canadian Charter of Rights and Freedoms* is, as you've seen, part of the constitution of our country, and as such it takes priority over other laws. If other laws conflict with it, those laws have no force, at least insofar as they conflict. But just what rights and freedoms does the *Charter* protect? The outline that follows the Going Further box below explains the basic protections provided by the *Canadian Charter of Rights and Freedoms*.

Going Further



If you wish to investigate the *Charter* in more detail, you'll find the entire document on pages 600 to 603 of your textbook. You'll also find a good discussion of the various sections of the *Charter* on pages 50 to 56.

RIGHTS AND FREEDOMS GUARANTEED IN THE *CHARTER*

Fundamental Freedoms

- Freedom of conscience and religion: Individuals can have whatever religious, moral, and philosophical beliefs they want, and they can support any philosophical group.
- Freedom of expression: Individuals are free to express their beliefs through speech, writing, or other means.
- Freedom of peaceful assembly and of association: People can get together with others and hold peaceful assemblies.

6. Do you see any problem in allowing people to express whatever beliefs they wish? If so, describe it and, if possible, propose a solution.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

Democratic Rights

- The right to vote

Mobility Rights

- The right to move freely within Canada

Legal Rights

- The right to life, liberty, and the security of the person: This includes things like protection from imprisonment without trial, the right to consult a lawyer if arrested, and all the rights fundamental to our justice system.

7. Recent legal rulings have given prisoners in jails the right to vote because of the *Charter*.

- a. Why do you suppose this right was denied them in the past?
- b. Do you think prisoners should be allowed the right to vote? Explain your answer. Debate the issue if you have a study partner.

8. Do you believe provinces and territories should be able to restrict mobility rights to prevent people from other provinces and territories moving in and taking jobs? Give your reasons.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Language Rights

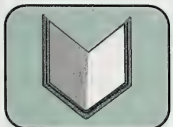
- The right to use either official language when communicating with the federal government where there is sufficient demand for this service
- The right to be educated in either official language (subject to certain restrictions)

Aboriginal Rights

- The treaty rights guaranteed Canada's native peoples

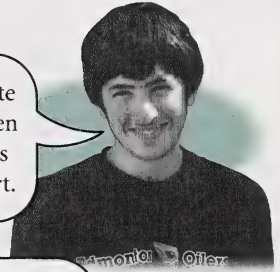
9. Read the material under the heading "Section 23: Minority Language Educational Rights" on pages 55 and 56 of the textbook. Then read the case study at the bottom of page 55. Explain the decision of the Supreme Court of Canada in this case by referring to rights guaranteed in the *Charter*.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.



Some people have criticized the *Charter*, saying that it gives the courts too much power. The courts can even declare existing legislation to be null and void if that legislation is felt to be inconsistent with a section of the *Charter*.

Yeah, and I've heard that if the police violate the *Charter* rights of people they arrest when they get evidence against them, a judge has the right not to allow that evidence in court.



Good example. Some Canadians feel that the *Charter* goes too far in guaranteeing everyone certain rights. They think that the good of society as a whole can be sacrificed too easily to protect the rights of one individual.



- 10.** Turn to pages 51 and 52 of your textbook and read the case study *R. v. Keegstra*. This is a famous Alberta case you may have heard about. When you've read it, answer the following questions.

- a.** In your own words, explain the Supreme Court's decision.
- b.** Keegstra's defence was that section 2(b) of the *Charter*, protecting freedom of thought and expression, allowed him to present his point of view publicly. The court rejected this argument.

Do you think the court would have seen things differently if Keegstra hadn't been a teacher expressing his views to students? Give reasons for your answer.

- c.** How might Keegstra's students have been harmed by his teachings?

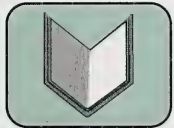


Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.



I have a question. I know that in these case studies, the *v* stands for *versus*. But lots of them begin with an *R*.—like *R. v. Keegstra*. Who is this *R* guy?

That's a good question. The title, or *citation*, of a case gives the names of the two parties involved. In criminal cases, one of the parties is always the government; the *R* stands for *Rex* or *Regina*, Latin for *King* and *Queen*, respectively.



11. Now, also on page 51, read the case *Aubry v. Éditions Vice-Versa Inc.* and respond to the questions that follow.

- a. What rights and freedoms were in conflict in this case?
- b. Was there a precedent being established here? Explain your answer.
- c. Do you agree with the decision of the Supreme Court? If possible, debate this question in a group or with your study partner.



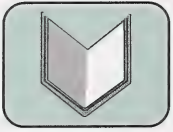
Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

As you've seen in this lesson, the *Canadian Charter of Rights and Freedoms* is one of the most important pieces of legislation ever to have become law in Canada. It's by no means a perfect document; many people feel it goes too far in guaranteeing rights while others object to the fact that the provinces can get out of some of the *Charter's* provisions by use of what's called the "notwithstanding clause." Yet, the *Charter's* impact on our country's legal system has been enormous; and the full impact may not yet have been felt. The *Charter* does mean that as a Canadian you have constitutional protection of your civil rights—something for which people in many other parts of the world envy you enormously.

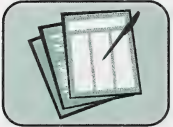


Going Further

Try one or more of the following activities:



- The preceding discussion alludes to the “notwithstanding clause” in the *Canadian Charter of Rights and Freedoms*. You may have heard references made to this controversial clause in the news media from time to time. If you’d like to learn more about how provinces can get out of some provisions of the *Charter* by way of the “notwithstanding clause,” read page 47 of your textbook.



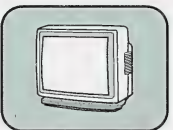
- On pages 48 and 49 of your textbook, read the discussion of the issue titled “The Supreme Court of Canada and the Charter: Democratic or Anti-Democratic?” When you’ve read the material there, try to discuss it with fellow students or family members; after you’ve done this, gather arguments to support the position that the Supreme Court and the *Charter* have become too powerful a force in Canada—an undemocratic force because judges aren’t elected to office.



When you’ve gathered your arguments, present them in a brief position paper. If you wish to do more research, your librarian may be able to help you. You can use the Internet for additional research.



- As noted earlier, if you’d like to learn more about the *Canadian Charter of Rights and Freedoms*, you’ll find the complete document on pages 600 to 603 of your textbook. As well, there’s a discussion of the *Charter* provisions on pages 50 to 56. Why not take some time now to familiarize yourself with the rights the *Charter* guarantees you?



- TVOntario’s series of videotapes *A Question of Justice*, has two half-hour presentations on the *Canadian Charter of Rights and Freedoms*. If you can get hold of them, watch the videos *It’s a Free Country* and *What About My Rights?* The former video deals with the *Charter*’s role in protecting an individual’s right to freedom of expression, while the latter looks at the impact the *Charter* has had on a number of issues—from a woman’s right to have an abortion to the right of an accused to be brought to trial in a reasonable period of time.

These are excellent videos, but they contain a good deal of material; so you might want to watch them more than once and discuss them with a classmate if possible. You may or may not agree with all that’s in them (for example, the second tape takes a rather pro-choice stance on the abortion issue); but either way they’ll help you better appreciate the impact of the *Charter* on the lives of Canadians.



- Finally, the Internet offers a wealth of material on the *Charter*. Here’s one website, provided by the Alberta Law Foundation, that will get you started:

<http://www.law-faqs.org/nat/char.htm>

Assignment

Now open Assignment Booklet A, turn to the Section 1 Assignment, and answer question 1.

Suggested Answers

1. The problem was that the federal government and the provincial governments in Canada were suspicious of each other. Fearing the loss of powers guaranteed under the *BNA Act*, the various governments in Canada couldn't agree on a formula with which they could amend the constitution if changes became necessary.
2. The original British statute that created Canada, the *BNA Act*, was renamed the *Constitution Act, 1867* in contrast to the *Constitution Act, 1982*. This latter statute is very much the same as the former, but it has added elements like an amending formula and, of course, the *Canadian Charter of Rights and Freedoms*.
3. If the constitution is to be amended, both the Parliament of Canada and two-thirds of the provinces, accounting for at least 50 percent of the country's population, must agree.
4. John Diefenbaker was the Prime Minister who gave Canada the *Canadian Bill of Rights*. Pierre Elliott Trudeau gave the country the *Canadian Charter of Rights and Freedoms*.
5.
 - a. The *Bill of Rights* is only an act of Parliament—a statute like any other passed by the Government of Canada. As such, Parliament can revoke or change it any time it wishes. By contrast, the *Charter* is part of the constitution; as you've seen, the consent of Parliament, along with two-thirds of the provinces accounting for 50 percent of the population of the country, is required to change it.
 - b. While the *Charter* guarantees Canadians basic rights and freedoms, it doesn't do this to the extent that the security of society as a whole is seriously jeopardized. Section 1 permits lawmakers to pass legislation that limits citizens' rights and freedoms if the legislation can be justified in a democratic society. If there's a question about whether a law goes too far in limiting rights and freedoms, the courts can interpret the *Charter* and decide on the matter.
6. Answers will vary, but the real point of concern here is allowing people to express ideas that can clearly harm others. If people are permitted to preach hatred and violence against others or to promote things like child pornography or the degradation of minority groups, real damage can obviously result.

The solutions you've proposed will likely involve a compromise of some sort, but the people who drafted the *Charter* foresaw problems like this and prepared for them. As you've seen, Section 1 of the *Charter* says "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstratively justified in a free and democratic society." In other words, the courts can put restrictions on freedom of expression if they believe those restrictions are reasonable and justified.

7.
 - a. Society used to feel that inmates, having broken the laws of the land, had thereby given up all rights accorded them by those laws.
 - b. Answers will vary. Did you present your views clearly? Did you defend them?

Some people still feel that prisoners, in breaking the law and not respecting the rights of others, are thereby giving up their own rights. Others believe that prisoners are already being punished for their crimes and that just becoming a prisoner shouldn't rob a person of rights guaranteed Canadian citizens by the *Charter*. Besides, there are all sorts of inmates in jails, from convicted serial killers to people with no convictions, awaiting a trial that may prove them innocent. Should all these people be denied the right to vote?

8. Answers will vary. Leaders of some provinces were worried when the *Charter* was being drawn up that if the economy was doing well in their areas, workers would come in from other provinces, take jobs, and enjoy social benefits they hadn't paid for. For that reason, a subsection was added to the effect that provinces could pass reasonable laws laying out residency requirements in some situations.
9. The Supreme Court of Canada ruled that the first decision was correct according to the *Charter*. That decision had been that the parents had the right to have their children educated in French. The *Charter* guarantees Canadians the right to have their children educated in either French or English as long as certain criteria are met and the numbers of people wanting their children educated in one of these languages is sufficient to warrant the expense. Each provincial government decides on the numbers needed. In this case, the provincial government agreed that there were enough people, but it had still refused to provide the education requested.
10. a. The Supreme Court reversed the decision of the Alberta Court of Appeal, which had said that the *Criminal Code* provisions under which Keegstra had been convicted violated Keegstra's freedom of expression guaranteed in the *Charter*. In simpler terms, the Supreme Court didn't buy the argument that Keegstra could say whatever he wanted because of *Charter* guarantees. Four of the seven Supreme Court judges felt that Section 1 of the *Charter*, which allows governments to make laws that put reasonable limits on freedom of expression, justified the *Criminal Code* provisions.
- b. Answers will vary. It's likely that the charges were laid because Keegstra was a teacher and in a position of trust in the school. He had a captive audience and could present his views to his students as fact, not opinion.
- c. It's possible that some of his students could have accepted Keegstra's racist views, and they could have gone on to develop a hatred of the Jewish community. Some might even have perpetrated acts of violence against Jews. A teacher is in a position of trust and can exert undue influence over students. Students can't just get up and leave; and they know that if they disagree with some teachers' views, they may even suffer lower grades.
11. a. Aubry's right to privacy was in conflict with the magazine's freedom of expression.
- b. The precedent is that even a photograph taken of a person in a public place can't be published unless the person consents.
- c. Responses will vary. Did you back up your point of view with facts and reasons?

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Lesson 4: Rights and Obligations



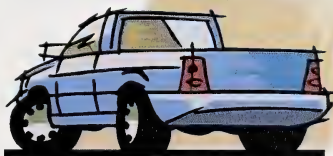
Rights Versus Responsibilities

Moira had looked forward to getting her driver's licence for years. When she finally got it, she decided to celebrate. She drove a few friends out to a spot they knew in the country, where they had a few beers.

Then, feeling the need for some excitement, the group piled into the truck and went cruising along some back roads, far exceeding safe driving speeds for the type of terrain. Finally, coming up over the crest of a hill and driving in the middle of the road, Moira smashed head-on into a grain truck going the other way. Moira was thrown clear of the collision, but two of her friends were killed.

You've heard lots of stories like this; the media is full of such accounts as part of an attempt to get people to drive more safely. The unfortunate fact is, though, that such incidents are all too common; and they underline an important issue—the relationship of rights and responsibilities. Moira was given the right to drive a motor vehicle on the understanding that she'd do so responsibly. When she failed to live up to that responsibility, there was a heavy price to be paid.

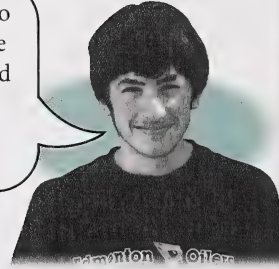
Rights and responsibilities—or obligations—always go hand in hand. It's society that confers a right on an individual, and that individual then owes society the responsibility of exercising that right in a careful, prudent manner that won't infringe on the rights of others.





I see what you mean. For example, you may have the right to drive, but if you don't honour your responsibility to drive safely, my right to walk along the street in safety has been taken away.

Yeah, or if you don't pay attention to the responsibility that goes with the right to own a gun—like storing and operating it safely—my right to go into the forest with any degree of security has been stolen from me.



1. With a study partner, if you have one, brainstorm for a few minutes and see how many rights you can list that society confers on you. Then, for each one, present a responsibility that goes along with it.

Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

Balancing rights and responsibilities is something that society is always working at; and different countries, and even different provinces, come up with slightly different balances. For instance, as a broad generalization it's probably safe to say that the United States tends to put more emphasis on individual rights and freedoms, while Canada stresses responsibility to others a bit more.

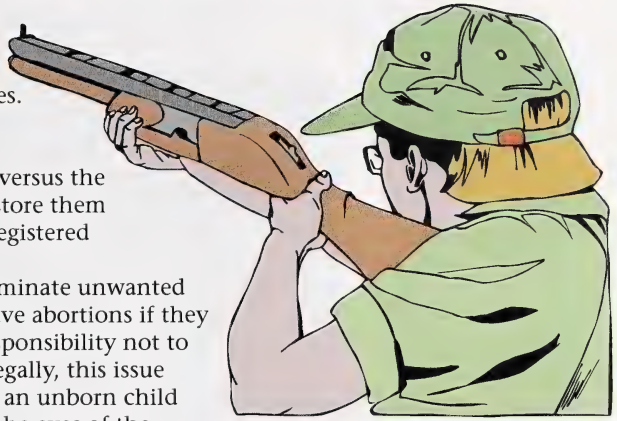
Most Americans, for example, see the right to carry firearms as a fundamental freedom (the "right to bear arms" is even in their constitution, though it can be interpreted in different ways), while the majority of Canadians want this freedom restricted for reasons of public safety—even if they may not all agree with the current gun-registration policy.

2. Ironically, extending people's freedoms can, in turn, limit the freedoms of those people in other ways. If everyone is given the freedom to carry around concealed weapons, explain how other freedoms are curtailed.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

Many issues confronting Canadians today concern the balancing of rights (and freedoms) against responsibilities. Following are five such issues:

- the right to own firearms versus the responsibility to use and store them safely and to have them registered
- the right of women to terminate unwanted pregnancies (that is, to have abortions if they so choose) versus their responsibility not to take the lives of others (Legally, this issue hinges on whether or not an unborn child is considered a person in the eyes of the law. At present in Canadian law, a fetus isn't a person and so has no rights. This doesn't, however, affect the moral questions behind the issue.)
- freedom of speech versus the responsibility not to encourage violence and abuse toward others
- the right of doctors to assist terminally ill patients in great pain to end their suffering versus the doctors' responsibility to save lives
- the right of athletes to participate in athletic competitions and to strive to their utmost to win versus their responsibility not to use banned drugs (and to supply blood or urine samples to be tested)



Going Further

Alone or with a group, research **one** of these five issues and write up the results in a short report that could be presented for a group discussion. (Your librarian can help you find material, and the Internet should be able to provide you with a great deal of information.) In your report, take a position on the issue and defend it.

The *Canadian Charter of Rights and Freedoms* recognizes the need to weigh rights and freedoms against responsibilities. Section 1 reads “*The Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” It’s this clause that gives governments the rights to censor literature, for instance, if it’s felt to endanger others. With rights, come responsibilities.

As a high school student, one area of rights and responsibilities most likely of interest to you is that concerning **minors**—people under the age of majority. It’s these rights and responsibilities that you’ll be focusing on in particular for the rest of this lesson.

minor: anyone under the age of majority



Rights and Responsibilities of Minors



age of majority:
*the age at which
a person can
undertake legal
obligations (in
Alberta, 18)*

infant: *in legal
terminology, a
minor*

If you're under the age of 18 (and if you're taking this course, chances are good that you are), you're a minor—a person who hasn't yet reached the **age of majority**. In legalese, minors can also be referred to as **infants**, although in what follows the former term will be used—a decision for which you'll likely be grateful! Though the rights and responsibilities of minors are, understandably, rather different from those of adults, the fact is that in Alberta minors do have many rights; and along with them come responsibilities. What follows is a brief look at some of the rights you have as a minor.

The Right to an Education

If you're between the ages of 6 and 18 in Alberta, you have the right to an education. Generally, you must attend school until you reach the age of 16. The rights and responsibilities of a student are contained in Alberta's *School Act*, which outlines provisions related to your education.

Your guardian or your parents have the responsibility to see that you attend school regularly, but the teachers, principals, and other school officials can make rules about what you can or cannot do on school property. You must comply with a code of conduct.

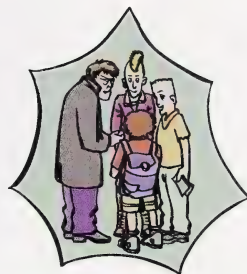
School teachers and other school officials can discipline you, but the discipline can't be more severe than the wrong you did. This discipline may include corporal punishment, depending on which school jurisdiction you're in. Some jurisdictions have banned it while others haven't.

- 3. a.** "One student's right to an education may infringe on another student's ability to learn." Have you experienced examples in your school life where the behaviour of one student may have prevented others from learning? If possible, discuss this with another student or friend, and record your responses. If you're working alone, simply describe the situation.





- b. In recent years, bullying at schools has become an important issue among educators, students, parents, and the public at large. If you attend a school, chances are good that you've seen bullying going on; perhaps you've been the victim of bullying yourself. And even if you don't attend a school, you've probably heard this issue discussed in the news. But while you may know that bullying exists, are you aware of your legal protection against it? Explain what you know, or do some research and see what you can learn. As always, the Internet is a good place to start.



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

The Right to Make Contracts for Necessaries

capacity: the legal ability to enter into a valid contract

As you'll remember if you took Legal Studies 1010, the law protects minors from being exploited by more experienced people. It does this by stating that they lack the **capacity** to enter into contracts; in other words, no one can force minors to live up to contracts they may have made.

There are, however, exceptions to this rule: minors may enter into binding contracts for things the courts call **necessaries**. Necessaries include

necessaries: goods and services considered necessary for a person's health and well-being

- food
- medical care
- shelter
- education
- clothing

The reason for this is that if businesses knew that their contracts with minors weren't enforceable, they wouldn't be anxious to sell to minors; and this could have serious consequences. To better ensure that minors have access to necessities, the courts will enforce contracts they've made to obtain them.



So if, say, I sign a rental agreement for an apartment, the courts will enforce it if I try to get out of it even though I'm only 17?

That's right. Otherwise, landlords would almost never rent to minors, and the result would be more kids living on the street.



Parents aren't responsible for the contracts and debts of their children, although there are exceptions to this rule. If a relationship with a business has been established whereby in the past the business has provided services or goods to the minor and the parents have paid the account, those parents would be liable for future debts of the minor as a result of the past relationship. The courts would deem that the parents had created an expectation on the part of the business that the account would be paid.

4. Myron is 15 years old and has been hired to work on a construction job site. He requires steel-toed work boots for his first day of work. Myron purchases the boots on credit, but after two days on the job he's laid off. He returns to the store along with the work boots and insists the store take them back. Will he be successful?

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

The Right to Obtain a Driver's Licence and Passport



If you're 16, you can, as you almost certainly know, obtain a driver's licence. In Alberta, as in many provinces, there are now restrictions put on new drivers during the first—probationary—period of being licensed to drive.

As of December 11, 2001, all minors, no matter how young they are, must have a passport in their own names in order to travel. Prior to this, minors would have children's passports or they'd be listed on the passports of their parents or guardians.

This gives minors another right—the right to their own passports. But because young children change physically so much more rapidly than older people, passports for children up to age three are valid for only three, rather than the usual five, years.

The Right to Drink Alcohol

If you're under the age of 18, you can drink alcoholic beverages legally if one or both of the following conditions are met:

- You're in a private home and your parent or guardian is present and agrees.
- A doctor or dentist prescribes alcohol for you.

The Right to Be Supported by Your Family

Your parents or guardian have a legal duty to provide you with "necessaries" and to support you financially until you're 16 (18 if you're still in high school).

The Right to Get Married

Normally, anyone under the age of 18 will need the consent of his or her parents or guardian to marry. If you do get married without consent, however, and you can prove that you consummated the marriage (had sexual intercourse) or that you've lived together as husband and wife, the marriage cannot be annulled.

Once you're 16, you have the right to apply to the court for permission to get married if your parents or guardian don't consent. Usually the court will give you permission only if your parents or guardian fail to provide a valid reason to withhold consent.



The Right to Live Away from Home

If you're under the age of 16, you need your parents' or your guardian's consent before you can leave home. If you're 16 or older, you need no such consent.

The Right to Change Your Name

Perhaps the preceding heading should read "The Right Not to Have Your Name Changed" in that you can't legally change your name yourself unless you're 18 or older. If you're over 12, however, your guardians or parents need your consent before they can change your name.

The Right to Work

If you're from age 12 to 14, you can't work for a business unless you get written permission from a parent or guardian. You're also restricted to working in an office or a store or delivering flyers or papers or—and this is a recent addition—working in a restaurant or the food services industry. And you can't work between 9:00 p.m. and 6:00 a.m.

On school days, you can work for only two hours a day, or up to eight hours a day on weekends or holidays. You can work during school hours, however, if you're enrolled in an approved training or work-experience program.



If you're 15 to 17, you still need the consent of your parent or guardian to work, but you're not as restricted in what you can do. If you work past 9:00 p.m. in a store, hotel, motel, or selling gas, you must be supervised by an adult and you can't work past midnight. If you do another sort of job, you must have an adult working with you.

5. Many young people have jobs, and employers don't always request parental permission. Does this mean that these employers are violating the law? Explain your answer.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

The Right to Own Property

If you're under 18, you can own or control property but you can't always do what you want with it. If you own land, your parents or your guardian may handle the property on your behalf until your 18th birthday.

The Right to Make a Will

If you're under 18 years of age but married, you have the right to make a legally valid will. You also have this right if you're not married but have children and you make a will in which they're named beneficiaries (though only the part of the will that names the children is valid).

Further, if you're a member of the Armed Forces or a sailor at sea but are under the age of 18, you can make a legal will.

As you can see, minors in Alberta and throughout Canada are afforded many rights, and along with those rights go obligations. It's important for young people to be aware of their rights—and the corresponding responsibilities they entail.

6. Now that you've examined the rights afforded minors, see if you can determine corresponding responsibilities. Construct a chart like the one that follows and complete it by suggesting a responsibility corresponding with each right. The first two are done for you as examples. Note that you don't have to cite legal obligations.

beneficiary: a person named to receive a benefit—for example, a bequest under the terms of a will



Rights	Responsibilities
the right to an education	<i>conducting yourself in school so as not to interfere with others' right to an education</i>
the right to make contracts for necessities	<i>honouring the contracts you make</i>
the right to get a driver's licence and passport	
the right to drink alcohol	
the right to be supported by your family	
the right to get married	
the right to live away from home	
the right to change your name	
the right to work	
the right to own property	
the right to make a will	

Turn to the Suggested Answers at the end of this lesson
and compare your chart with the one given there.

Rights and Responsibilities of Students



The list you've been looking at in this lesson should give you an idea of some of the basic rights you have as a minor, but of course in a broader sense society confers more rights on you—and, in turn, expects more responsibilities. A good example of this is your role as a student. If you attend a school, you have certain rights and responsibilities; some of these are laid down in Alberta's *School Act*, while others are simply conferred by your school and by your status as a student in the school.



7. What are your rights and obligations as a student? Construct a chart like the one that follows and, working alone or with a classmate, list as many rights and responsibilities as you can. You might want to look at your school handbook if one is available.

The chart has been started for you.

Rights	Responsibilities
the right to be treated with respect by the staff and other students	<i>the responsibility of treating staff and other students with respect</i>
the right to participate in school activities	<i>the responsibility of behaving appropriately while participating in school activities</i>

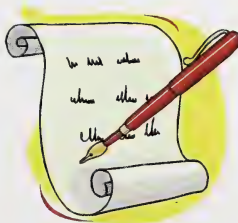
Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

As a minor, your rights and responsibilities are, as you've seen, somewhat different from those of adults; nevertheless, society does afford you very important legal rights, and it expects you to prove yourself worthy of them by conducting yourself in a responsible manner. In a way, the years you spend as a minor are a sort of preparation for the expanded rights—and the expanded responsibilities—you'll have when you reach the age of majority. If you make good use of this preparatory period, you'll be ready to shoulder the full responsibilities of adulthood.



"Doesn't the Charter guarantee miners the same rights as everyone else?"

- 8.** In Alberta, as you've seen minors, or people under the age of majority, have many specific rights accorded them. To finish up this lesson, test your knowledge of minors' rights by identifying each of the following statements as true or false.
- a.** A minor can't be forced to honour a contract to buy a stereo.
 - b.** While most minors in Alberta are given an education, they have no absolute right to one.
 - c.** School discipline may include corporal punishment.
 - d.** You can apply for a passport in your own name if you're aged 17.
 - e.** If a minor is still in high school, his or her parents or guardian must provide financial support up to the age of majority.
 - f.** If a minor agrees to buy a pizza, this is a legally binding contract.
 - g.** A 16-year-old can move away from home without parental consent.
 - h.** A 17-year-old must have parental consent to marry.
 - i.** A 15-year-old has the right to drink alcohol in a private home if a parent is present and allows it.
 - j.** An unmarried 16-year-old may have the right to make a valid will.



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Going Further

In this section you've learned about one body you can turn to for help with human rights infringements—Alberta's Human Rights and Citizenship Commission, established by the *Human Rights, Citizenship and Multiculturalism Act*. There are, however, other bodies and offices designed to watch over people's rights and help those who need it. Here are three of them:

- the Children's Advocate
- the Public Trustee
- the Ombudsman

Do some research into **one** of these offices and see what you can learn about the role it plays in protecting people's rights. Your school or local library should be able to provide you with material; ask your librarian if you need help. Alternatively, you can obtain information in the following ways.



For information on the Children's Advocate, visit this website:

<http://www3.gov.ab.ca/cs/childrensadvocate/index.html>

There, you'll find all sorts of useful information as well as contacts from around the province. Just click on the map of Alberta provided in "Getting Services" to discover contact information in your area.

To learn about the Public Trustee, this website that will get you started:

<http://www4.gov.ab.ca/just/trustee/>

Once there, you can move around the site to learn about the function of the Public Trustee in general, though the headings that might interest you most are probably "Mission and Values" and "Minors."

To discover the role of Alberta's Ombudsman, start with this website:

http://www.abheritage.ca/abpolitics/process/off_ombudsman.html

You can also learn about the ombudsman by calling this toll-free number from anywhere in the province: 1-800-332-1091 (in Calgary, 234-9022) and asking to listen to recording 633. This is part of an excellent series of recordings on a variety of legal issues offered by Calgary Legal Guidance and the Alberta Law Foundation. Because these recordings are designed to offer practical legal information to Albertans, they're presented in a straightforward, easy-to-understand manner.

When you've done your research, write up your findings in a short report.



Assignment

Now open Assignment Booklet A, turn to the Section 1 Assignment, and answer questions 2 to 5.

Suggested Answers

1. Lists will vary. Throughout this lesson different rights are discussed; as you work your way through, see how many of them are on your list.
2. If everyone is free to carry concealed weapons, the actual result is that people have less freedom to go out in public with a sense of security and comfort. With people all around them who may be armed, the chances are greatly increased that they'll suffer harm.
3. a. Answers will vary. A student whose behaviour is disruptive in the classroom may be expelled from the school, but the law (the *School Act*) requires that if that student is under the age of 16, he or she must be provided with an education somehow. Other cases may include a student who is psychologically or emotionally disadvantaged causing a disturbance that interferes with other students' learning or taking up large amounts of the teacher's time and energy.

These issues underscore the difficulty of balancing people's rights. On the one hand, students with psychological challenges deserve an education and the chance to interact with others. On the other hand, their fellow students deserve the right to be taught in an environment conducive to learning. It's a difficult situation, isn't it?

- b. If you live in Edmonton, you're protected by a bylaw (a law passed by a municipal government) that prohibits bullying. However, while other municipalities in Alberta feel that such a bylaw might have symbolic value, they rely on Alberta's *School Act* and the *Youth Criminal Justice Act* to counter bullying. You'll be looking at the *Youth Criminal Justice Act* later in this course. What you should know at this point, however, is that whether or not you live in Edmonton, there are laws in place to protect you from bullying at school. You have rights; but if they're to be enforced, you must let your school authorities know what's happening.
4. No, the store has no legal obligation to take the boots back and let Myron out of his contract. Even though Myron is a minor, the contract to buy the boots is valid because the courts consider clothing a "necessary."
5. Employers who hire students under the age of 15 should get written consent from a parent or guardian, and even students aged 15 through 17 need their parent's or guardian's permission. The truth is, however, that employers often fail to honour this rule, and when this happens, they are breaking the law. Any employer who fails to get parental consent could be sued if, for example, the young person working for him or her were injured on the job.

6. Charts will vary. Here's one student's chart with which to compare your own. Note that the entries in the Responsibilities column aren't all legal duties but rather behaviour expected by society.

Rights	Responsibilities
the right to an education	<i>conducting yourself in school so as not to interfere with others' right to an education</i>
the right to make contracts for necessities	<i>honouring the contracts you make</i>
the right to get a driver's licence and passport	driving responsibly and according to the law; obeying the laws of foreign countries when travelling abroad
the right to drink alcohol	drinking responsibly and being sure that your drinking does harm to no one else; obeying the law on drinking and driving
the right to be supported by your family	acting as a responsible, contributing member of your family
the right to get married	making a responsible decision about marriage and living up to your commitment
the right to live away from home	looking after yourself in a mature and independent manner
the right to change your name	not using a name change to avoid paying bills or for criminal activity
the right to work	being a responsible, dependable employee who treats fellow employees with respect
the right to own property	looking after whatever property you own and not letting it interfere with other people's enjoyment of theirs
the right to make a will	making out a will that's clear and fair

7. Charts will vary. Some rights you have by law as a student in Alberta while others may be granted by your school; these latter rights will, of course, sometimes be different from one school to another. For example, some schools may allow students to smoke in designated areas and only if they're over the age of 16. Others confer no such right. Some schools have a policy whereby students who are failing their academic courses aren't permitted to participate on athletic teams.

Do you know all the rights your school confers on you? How about the responsibilities that go along with them?

Speaking of responsibilities, according to the *School Act* students are to

- be diligent in pursuing their studies
- attend school regularly and punctually
- co-operate with everyone authorized by the board to provide education and services
- comply with the school's rules for the school
- account to their teachers for their conduct
- respect the rights of others

8. a. True
b. False
c. True—in some jurisdictions
d. True
e. True
f. True
g. True
h. False (This is normally the case, but there are exceptions as you've seen.)
i. True
j. True

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Section 1 Conclusion



Rights. Freedoms. Responsibilities. Discrimination. Terms like these were probably familiar to you in a general sense before working through this section, but do you now think you have a more precise understanding of them? At this point you should have a good basic knowledge of some of the important rights and responsibilities that Canadians—and minors in particular—are guaranteed.

As a citizen of a multicultural, democratic country, it's important that you be aware of people's human and civil rights and the statutes that protect them. Knowledge of this sort is crucial if Canada is to continue to develop as a tolerant, co-operative, and peaceful country where people can lead their lives without fear of an oppressive government or prejudiced neighbours.

Now that you have a solid grounding in the fundamentals of rights and responsibilities in Canada and the legislation that guarantees them, it's time to get a bit more specific. You'll begin this process in Section 2, which focuses in particular on the rights and responsibilities of employees and the people they work for.

SECTION 2

Protecting Workers' Rights



Imagine that you've been working for a company for many years and suddenly new owners take over the business. Wanting to bring in workers from one of their other sites, they decide to lay off everyone where you work. Despite your years of service, you aren't given any notice of the layoff and you aren't compensated in any way. Would this seem fair to you?

Situations like this one illustrate the need for laws to regulate the world of work. Of course, it's not just employees who benefit from the protection of laws; employers, as well, need laws to protect them from unscrupulous workers. Employment law seeks to find the middle ground between the rights and responsibilities of both groups.

In this section you'll investigate laws that govern the workplace. When you've finished you should be able to explain why workers need the protection of laws, identify the rights and responsibilities of employers and employees, and outline protection and legal remedies for wrongs committed in the workplace.

Lesson 1: Why Protect Workers' Rights?

It's pretty hard to live in Canada these days without being aware that laws exist to protect workers' rights. We're constantly hearing about employees going on strike, about unions, about injured workers' efforts to receive financial compensation, and about minimum-wage laws. All this begs the question, why do we need laws to govern the workplace at all?

Not too long ago, at least in historical terms, many people didn't think we needed laws to govern employment. When the early factories were established during England's Industrial Revolution, no such laws existed except those governing contract law. A worker simply contracted to work for an employer for so much money, and that was it. If the work site proved to be highly dangerous and a worker was killed, the employer simply pointed out that the person had contracted to work under those conditions. If workers were paid wages no one could be expected to live on, employers again simply said they'd agreed to work for those wages.

The reality was that usually the workers had no choice. They had to work or starve, and if they didn't accept the unsafe conditions or the low pay, somebody else would. There was no employment insurance then for unemployed workers and no social-safety net to catch those who couldn't get jobs.



And I'll bet there were no workers' compensation laws either. So if, say, a guy lost an arm in an industrial accident and couldn't do the work anymore, it was just adios.

Precisely. The employers knew that they could quickly get replacement workers. Generally, it was cheaper to retrain new employees than to install safer equipment, so it was just good business sense to put workers at great personal risk.





1. Before going on, take a few minutes and try to list as many aspects of employment as you can where laws exist today to protect workers. If you have a study partner, brainstorm a list together. The list has been started for you.

• *minimum wage*

Turn to the Suggested Answers at the end of this lesson
and compare your list with the one given there.

Of course the situation you've been looking at existed a long time ago. Nobody would support that kind of system anymore, right?

Not exactly. Even today some people argue that employment laws are restrictive and heavy-handed. Put yourself in the position of a business owner, for instance. Would you want laws in effect that required you to pay workers more money than you thought appropriate? To pay into employment-insurance funds and workers' compensation funds? To provide workers with paid holidays? To spend large amounts of money to keep your work site up to standards set by somebody else? Some people even like to see high unemployment rates; they think workers who fear losing their jobs or know that there are many unemployed people who would be grateful to replace them are liable to keep their wage demands down.

And it isn't just selfish considerations that lead to thinking of this sort. Some people argue that from an economic point of view everyone would be better off if there were weaker employment laws. For instance, if an employer weren't required to pay workers a minimum wage or to pay so much into employment insurance, that employer could probably afford to hire more workers, thereby creating more jobs. The argument goes that if business is allowed to thrive without so many restrictive laws, the economy will boom, there will be more work, and more people will have more money to spend. This will, in turn, create more chances for businesses, which will lead to even more employment, and so on.

You can see from all this that, as usual, creating laws to protect workers is a constant balancing act. If the laws are too weak, workers will be exploited; if they're too strong, business will be stifled. The need for laws is clear—but how far they should go isn't. What we have is a system that society in general thinks provides workers with adequate protection without putting too big a burden on business, but the balance is always in need of fine-tuning.



2. These are complex ideas, and they may be new to you; but in a paragraph try to express your own feelings on laws for the workplace. Should the government stress protection for workers, or should it give business a freer rein to create wealth? Many governments are wrestling with this question right now; it's one everyone should be thinking about.



Turn to the Suggested Answers at the end of this lesson
and read the helpful hints suggested there.

In this lesson you've thought a bit about the need for laws governing the workplace. In the next lesson you'll begin to look at some of the employment laws that exist in Alberta today.

Suggested Answers

1. Lists will vary. Here's one group's list with which you can compare your own:

- *minimum wage*
- hiring practices
- disabling injuries on the job
- statutory holidays
- work-site safety
- hours of work
- maternity/paternity leave
- layoffs
- overtime pay
- employment insurance
- vacations

Did your list contain other areas?

2. Answers will, of course, vary. This is a question that always lies in the background of any discussion on workers' rights, and arguments can be made for either side. Were you able to explain your ideas and defend them logically?

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Lesson 2: A Look at the Laws

Have you ever found yourself affected by a labour strike? Has a member of your family ever been on strike? Have your teachers ever gone on strike for higher pay, smaller class sizes, or some other change in their working conditions? Have the employees of a store where you shop ever walked off the job and set up picket lines?

Strikes are the most visible aspect of the bargaining that goes on between **labour unions** and employers. Historically, labour unions (or, more simply, *unions*) began to form in response to some of the abuses of workers discussed in Lesson 1. Workers began to discover that they had more power to insist on better wages and working conditions if they banded together. We hear a great deal about unions, and they're a powerful force in our society; but the fact is that over 60 percent of employees today don't belong to a union of any kind; they still have to negotiate their wages and working conditions individually with their employers.

labour union:
an organization that represents employees in a company or industry and bargains for them with their employer(s)



In this lesson it's basically the laws that protect these non-unionized workers that you'll be examining. Unions can negotiate large collective agreements that cover all their workers, but there are now powerful laws in place to protect non-unionized employees too. It's essentially these laws that you'll be looking at here. (If you're interested in laws regarding unions, consider taking Legal Studies 2020 at a later date.)

Common-Law Protection

Do you remember the brief discussion of common law in Section 1: Lesson 2? In case you've forgotten, common law (also called *case law* or *judge-made law*) is the body of laws that evolved in English-speaking countries over the centuries as judges made decisions in the cases they heard. By contrast, statute law is the body of laws that governments have passed as statutes or legislation—such as Alberta's *Human Rights, Citizenship and Multiculturalism Act*. Where statutes conflict with common-law decisions, the statutes take priority. But if a statute is rescinded (cancelled), everyone falls back on the common law.



Most of the laws that govern the workplace today are statutes passed by governments, but workers and employees still have rights given them by the common law. To get an idea about these rights, turn to page 572 in your textbook and read the discussion on that page. Note especially the duties of employers and employees listed under the heading "Common Law and Employment." When you've done this, answer the questions that follow.

1. **a.** Without looking back, see how many of the common-law duties you can list for both employers and employees. Use a chart like the one that follows.

Common-Law Duties	
Employers	Employees

- b.** What rights do employers and employees have under common law if their counterparts fail to live up to their common-law duties?
2. Now read the case *Gilmour v. Mossop* on page 573 of your textbook. Then answer the four textbook questions that follow it.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Statute-Law Protection

As noted previously, most of the laws you're likely to encounter in the workplace are statutes. Every province and territory in Canada has passed a number of statutes—or acts—that relate to employment. Three examples from Alberta are the *Employment Standards Code*, the *Workers' Compensation Act*, and the *Occupational Health and Safety Act*. There are, of course, other provincial statutes, some applying to specific occupations such as teaching or medicine; and the federal government has passed the *Canada Labour Code*, which applies only to employees of the federal government, Crown corporations, and industries connecting the provinces (for example, railways and pipeline companies).

The Employment Standards Branch of Alberta Human Resources and Employment has created a number of summaries and fact sheets that can quickly inform Alberta employees and employers about their rights and obligations. These summaries set out in clear language the minimum rights and responsibilities of both employers and employees in areas such as

- wages
- holidays and holiday pay
- hours of work and overtime pay
- terminating employment
- vacations and vacation pay
- parental benefits



You can access all this material online by going to this website address:

<http://www3.gov.ab.ca/hre/employmentstandards/publications/index.asp>

There, you'll find a variety of posters, brochures, and fact sheets that you can download. You'll also find one of these documents, titled "Employment Standards Guide," in the Appendix of this course. Turn to it now and read it over, trying to familiarize yourself with its major provisions. Then, using the summary, answer the questions that follow. You may find the language a bit complex at times; in legal documents, where precision is important, ease of understanding sometimes suffers a bit. If possible, work with a study partner.

3.
 - a. What is the general minimum wage in Alberta?
 - b. How many days off (days of rest) must an employer provide an employee? As part of your answer, indicate how long these days off can be accumulated before they have to be granted.
 - c. When is a worker legally considered to be working overtime in Alberta?
 - d. How many days of paid vacation is an Alberta employee entitled to after one year of employment?
 - e. When is an employee legally entitled to three weeks of annual vacation?

- f. (1)** How many weeks notice (of leaving their job) must employees give their employers if they've been working for less than three months?
- (2)** How many weeks notice must be given if the employment has continued for more than three months but less than two years?
- g.** If an employee has worked for an employer in Alberta for nine years, how much notice (or pay, in place of notice) is he or she entitled to if the job is to be terminated?
- h. (1)** For how many months must an employee have been working for an employer to be eligible for maternity or parental leave?
- (2)** If a pregnant employee has been working for less than the stipulated time, can her employer lay her off because of the pregnancy? Explain your answer.
- 4.** The section of the summary entitled "Statement of Earnings and Deductions" lists reasons why employers can and cannot deduct money from an employee.

Ever since Bruno began working for Mrs. Amin she's noticed more cash shortages than before, and even some of the stock in the back of the store has started to disappear. Suspecting Bruno of stealing, she's begun to deduct amounts from his paycheque to compensate for her losses—while waiting to catch him stealing, when she intends to fire him on the spot. Is this legal?

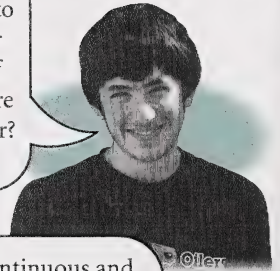


- 5.** Bereavement leave is time off work given employees to attend the funeral, grieve, and deal with the issues that must be taken care of when a family member dies. When John's mother died, John insisted that his employer grant him two days bereavement leave with pay. His employer refused. Is this legal?



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

I have one question. The "Employment Standards Guide" talks about notice of termination having to be given if you've worked for the same employer for a certain length of time. But what happens if your boss sells the business to another person? Are you starting over from scratch for a new employer? I'm asking because this happened to my aunt.



Employment is considered to be continuous and uninterrupted when a business is taken over by another company, so your aunt wouldn't legally be starting from zero with a new boss. She'd be considered to have been continuously employed for however long she'd done the job.



Lesson 2 has given you an introduction to some of the basic laws governing the workplace in Alberta. You should now have an understanding of how both the common law and statutes passed by the government work to govern what goes on in the workplace and protect both workers and employers. The next two lessons will take a closer look at some of the principal rights and responsibilities of employers and employees.

Going Further

If you'd like to learn more about your rights and obligations as an employee, go to the website address that follows. (It's the same as the one you were given earlier in Lesson 2.)

<http://www3.gov.ab.ca/hre/employmentstandards/publications/index.asp>

Among other documents, you'll find almost 30 fact sheets giving you more detailed information on workers' rights in Alberta. You'll also find addresses and phone numbers on the various documents that you can contact for more information.

Another good online source of information on employee/employer law in Alberta is a website operated by Student Legal Services of Edmonton. Just go to the following address and, on the right-hand side, click on "Employment—You & the Law." You'll find a good deal of very easy-to-understand material that should answer most of your questions.

<http://www.slsedmonton.com/civil/index.html>



This is a good place to make note of the fact that laws can and do change frequently; for instance, the minimum wage increases whenever the government deems that inflation has made this necessary. For this reason, bear in mind that the “Employment Standards Guide” in the Appendix of this Student Module Booklet may no longer be entirely accurate when you read it. Remember, it’s always important to access up-to-date information if you have a real legal issue to resolve. Fortunately, today the Internet makes this far easier than ever before. However, if you ever have a serious legal matter to resolve, it’s always best to get professional legal advice.

Suggested Answers

1. a. See the bulleted list on page 572 of your textbook.

b. If an employer fails to live up to his or her common-law duties, the employee can sue—that is, commence a legal action. If an employee fails to live up to his or her duties, the employer has just cause to dismiss that employee.

2. **Textbook question 1:** Mossop had to provide his employee with a safe place to work.

Textbook question 2: Yes, he did arrange for adequate instruction. Mossop’s daughter had spent the first two weeks of Gilmour’s job in the house explaining the duties involved, and she warned Gilmour that the dogs often lay on the stairs.

Textbook question 3: According to the appeal court, the working conditions were adequate. The court determined that the lack of railings didn’t play a role in this situation and the lighting would have been adequate to see a dog if Gilmour had turned on one of the kitchen lights.

Textbook question 4: The appeal court found that according to common law, if a person undertakes to work for another, he or she assumes the ordinary risks involved. Gilmour could have turned on a kitchen light, but didn’t. Your opinion on the matter may, of course, be different. Can you defend it?

3. a. This question is trickier than it looks. Did you notice the footnote at the bottom of the first page of the Guide? When this course was going to print, the minimum wage in Alberta was set to rise from \$5.90 to \$7.00 an hour—a significant jump. In all probability, as you take this course the province’s minimum wage is \$7.00 an hour, and this is the figure that will be used here.

b. An employer must provide at least one day off each week, but these may be accumulated for up to four weeks and then given consecutively within those four weeks. This means that an employee may have to work as many as 24 consecutive days and then take four days off.

c. With some exceptions, if an employee works more than 8 hours in a day or 44 in a week, that employee is legally working overtime and must be paid as such—at a rate of at least time-and-a-half.

d. After a year of employment, an employee is entitled to two weeks of paid vacation.

e. An employee is entitled to three weeks of annual vacation after working for an employer for five years.

- f. (1) If they've worked for less than three months, employees don't need to give any notice if they wish to leave their jobs.
- (2) Employees who have been employed between three months and two years are legally required to give one week's notice.
- g. An employee who has worked for an employer for nine years is entitled to six weeks' notice if the job is terminated.
- h. (1) To be eligible for maternity or parental leave, an employee must have been working for 52 consecutive weeks—that is, one year—for the same employer.
- (2) No, even though this employee isn't eligible for maternity or parental leave, human rights legislation requires that her employer "accommodate the health-related consequences of [the] pregnancy and childbirth up to the point of undue hardship." If there were ever a dispute, the Human Rights and Citizenship Commission or the courts would decide when the point of "undue hardship" was reached.
- 4. According to the *Code*, this is legal only if Bruno is Mrs. Amin's sole employee with access to the lost property or cash. If, however, Mrs. Amin gets proof that Bruno is stealing from her, she can fire him without notice.
- 5. Yes, this is legal. *The Employment Standards Code* doesn't deal with bereavement leave. Unless John has a guarantee of bereavement leave in his employment contract, it's up to his employer whether or not to grant it.

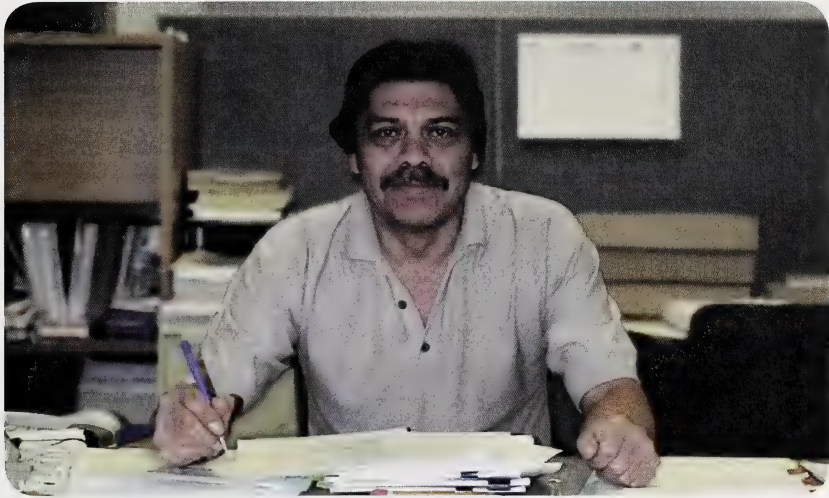
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Lesson 3: Human Rights and the Hiring Process



In Section 1 you looked at the issue of human rights and some of the laws designed to protect them—such as Alberta’s *Human Rights, Citizenship and Multiculturalism Act*. In this lesson you’ll look a bit more closely at how human rights legislation works to protect workers during the hiring process.

When hiring (and promoting) workers, employers have a responsibility to follow laws designed to protect workers’ rights. The list that follows shows the chief responsibilities employers have in this respect. They appear in many provincial codes and are pretty well standard from coast to coast.

Employers must

- hire and promote the most suitable candidates for specific positions
- consider job-related qualifications and experience
- establish measurable standards for evaluating job performance
- set employment terms that conform with the minimum standards specified by law
- establish salary or wage scales, either independently or through negotiation

With these points in mind, it’s time to dig a bit deeper into the laws governing the hiring and promoting of workers.

Begin by turning to page 574 in your textbook and reading the material under the heading “Human Rights in Employment” on that page and under the subheading “Discrimination” on page 575. When you’re finished the reading, answer the questions that follow.



1. Explain adverse-effect discrimination and an employer's duty to accommodate.
2. Now read the case study *British Columbia (Public Service Employee Relations Commission) v. BCGSEU* on pages 575 and 576. Then answer the three textbook questions that follow the case.



Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

As you've seen, human rights play an important role in the hiring and treatment of employees today. Now you'll look a bit more closely at the process of advertising jobs and hiring workers.

Advertising Jobs

You've likely seen a good many job advertisements in your life, but you probably haven't thought much about them. The fact is, though, that employers have to be careful about how they word their job ads. For example, advertisements that would discourage a qualified person of a particular race, gender, age, religion, and so on from applying for the job aren't allowed; you've already seen how Alberta's *Human Rights, Citizenship and Multiculturalism Act* prohibits discriminatory practices of this sort.

For example, you can't advertise a job for "men" or for "Roman Catholics only"?



Not unless, as you've seen in your textbook, there's an important reason why only a specific group of people could do the job—a **bona fide occupational requirement**. For instance, you can't ordinarily advertise a job for "able-bodied" candidates only, because this discriminates against those people with physical disabilities; but if the ad is for a firefighter, it's obvious that only an able-bodied person—male or female—can do the work.

bona fide occupational requirement:
a legitimate job requirement that makes it reasonable for an employer to hire people from some groups over others



Sometimes discrimination in job advertisements isn't so easy to pick out. For example, an ad that contains the requirement of "Canadian experience" will discourage qualified applicants who haven't been in Canada long; and for the most part these recent immigrants will likely belong to minority ethnic and language groups. Advertising of this sort is prohibited unless "Canadian experience" is a genuine and reasonable job requirement.

3. Section 8(1) of Alberta's *Human Rights, Citizenship and Multiculturalism Act* stipulates that nobody can create a job ad or application form that discriminates on the basis of race, religion, colour, gender, disability (mental or physical), age, ancestry, marital status, place of origin, family status, or source of income.

An ad for a position as a server in a restaurant asks, "Do you measure up? Do you have what it takes to be a Merle's Girl?" Beside these questions is a photograph of a young woman in a revealing outfit wearing a low-cut, tight top.

Does this ad break the law? Explain your answer.

Turn to the Suggested Answers at the end of this lesson
and compare your answer with the one given there.

Of course, some jobs really do require people with specific physical characteristics—a bona fide occupational requirement; for example, a blind person simply wouldn't qualify as a school-bus driver. For this reason, subsection 2 of Section 8 of the *Human Rights, Citizenship and Multiculturalism Act* reads

Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide [that is, honest] occupational qualification.

This means, as you've read, that in some cases a job ad can discriminate—as long as the employer can justify this as genuinely necessary.

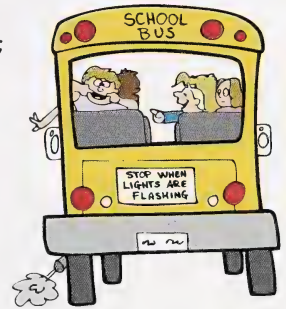
Most employers do their best to obey the laws against discrimination. For example, you'll frequently see ads like these:

- Welder (M/F) Required
- Seamstress (M/F) Required

The fact is that the large majority of welders are still male while most seamstresses are female; nevertheless, employers are required to open their job competition to members of both sexes.



For the most part, gender-specific language is disappearing from job descriptions. For example, words like *serviceman* and *policeman* have been replaced with *service technician* and *police officer*. One exception is the word *journeyman*; in Alberta under the *Apprenticeship and Industry Training Act*, this word is considered to apply to both men and women. Advertisements asking for a journeyman electrician, for example, aren't considered discriminatory; members of either sex can apply.





4. Take a few minutes and make a list of as many occupation titles as you can think of that have been changed in recent years to make them gender-neutral (like *policeman* becoming *police officer*). Do this with a study partner if you can.

You might try making a chart like the one that follows. It's been started for you.

Former Name	Gender-Neutral Name
<ul style="list-style-type: none">• serviceman• policeman	<ul style="list-style-type: none">• <i>service technician</i>• <i>police officer</i>

Turn to the Suggested Answers at the end of this lesson and compare your chart with the one given there.

5. Check through the employment advertisements in your local newspaper (if your family doesn't subscribe, your local library or school library will). See if you can spot any ads that violate anti-discrimination laws. If you do, explain how the laws are broken.

Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

Application Forms and Job Interviews



Like advertisements, job-application forms must be designed so as not to screen out applicants on any basis other than their ability to do the work. Questions aren't allowed on application forms that would elicit, either directly or indirectly, information about an applicant's religion, age, ethnicity, and so on.

More leeway is permitted in job interviews than on employment-application forms. Questions concerning certain prohibited grounds of discrimination that aren't allowed on application forms may sometimes be asked by employers at job interviews, but only in specific circumstances and if the nature of the job to be done warrants them.



In these cases, an employer must be able to show that the questions were asked because they pertain to genuine and reasonable qualifications for the job concerned. For example, for the public good a day-care operator might be allowed to inquire about past criminal offences of a job applicant; and someone hiring a bus driver would be justified in asking at the interview stage about a candidate's driving record.

duty to accommodate:
the legal requirement of an employer to take reasonable steps to accommodate the needs of employees or potential employees so as not to discriminate unfairly against certain groups

When an employer rejects a candidate for a job, claiming that a factor like age, sex, record of offences, or a physical characteristic is a genuine and reasonable qualification because of the nature of the employment, it still must be shown that every reasonable effort was made to accommodate the candidate without undue hardship to the employer.

For example, if a physically disabled person was rejected simply because the owner didn't want to make some simple and inexpensive modification to the way things were done, the candidate might have grounds for a complaint. Employers, you'll recall, have a duty to accommodate. In assessing undue hardship, courts give consideration to factors like cost, outside sources of funding, and any health and safety requirements.

Going Further

Try to get hold of sample application forms from a variety of employers and examine the questions on them. Do they all seem appropriate? If possible, discuss your thoughts with fellow students, friends, or family members.



Post-Hiring Inquiries



After a candidate has been hired for a job, an employer can appropriately ask a question that during the hiring process might have been considered unlawful—as long as there's a legitimate need for the information for administrative or personnel purposes. For example, it might easily be valid after hiring someone to ask for a photograph for identification or for information regarding a spouse and children for medical or life-insurance coverage.

Medical Inquiries

Employers aren't allowed to require job applicants to undergo a medical examination as part of the application process. Employment-related medicals can be conducted only after a written offer of employment has been made. What's more, the medical has to be restricted to determining whether the applicant is physically capable of performing the essential duties of the job.

Employers can offer jobs on the condition that applicants later pass a medical; but if an applicant subsequently fails that medical, the employer has to make reasonable efforts to accommodate him or her; the duty to accommodate extends to all parts of the employer/employee relationship. If a simple, inexpensive alteration to the way things are done will allow the employee to perform the job's duties, the employer will be expected to make it.



6. Mark applies for a position as an accountant with a large firm, and he's hired on the condition that he pass a medical exam—a policy the company has for all its employees. Upon taking the medical, Mark discovers that he has diabetes. The employer rejects him on the basis of his failed examination. Is this legal? Explain your answer.

Turn to the Suggested Answers at the end of this lesson
and compare your answer with the one given there.

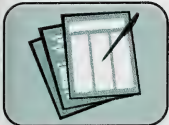
Affirmative-Action Programs

affirmative-action program: a program offered by an employer, a learning institution, or some other body designed to increase the number of people in the organization belonging to specific groups, where traditionally those groups have been underrepresented and considered disadvantaged

Have you ever heard of affirmative-action programs or policies? Broadly speaking, these are policies businesses can adopt whereby they try to give preference in hiring to minority groups who are underrepresented in that area of work and considered disadvantaged in getting jobs within it. As you've seen, questions on job applications concerning things like gender, race, and so on are normally forbidden; however, if these questions are asked as part of an affirmative-action program, such questions are sometimes allowed. Such a question might be phrased like the following one:

Andruchow & Associates has an affirmative-action policy in place whereby candidates from the following groups will be given preference over others if qualifications are similar. Do you wish to be considered in one or more of the following categories?

- female
- Aboriginal
- physically disabled
- member of an ethnic minority



7. What do you think about allowing the discriminatory hiring practices of affirmative-action programs? Does the end justify the means? Present your ideas in a one-page position paper. If you have a study partner, take sides and debate the issue.



Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

In this lesson you've looked at some employment laws that govern the hiring process. The next lesson will focus on rights and responsibilities of employers and employees on the job.

Suggested Answers

1. Adverse-effect discrimination occurs when a job requirement has a negative impact on a particular social group—such as men, the physically disabled, or members of a religious group. When this occurs, an employer has a duty to accommodate—to a reasonable degree—a job applicant or employee who is otherwise qualified. For instance, if no women's washroom or changing facilities are available at a jobsite that in the past has been exclusively male, this would have to be rectified to accommodate female employees who are capable of doing the job.
2. **Textbook question 1:** Gender—or sexual—discrimination was the issue in this case.

Textbook question 2: The government didn't do everything it could to accommodate Meiorin to the point of "undue hardship." That is, it didn't take reasonable steps to accommodate her. While it was clear that the prescribed fitness tests adversely affected women far more than men, there was no evidence that firefighters needed to achieve this level of fitness to do their jobs effectively.

Textbook question 3: While the Supreme Court of British Columbia reversed the decision of the arbitrator, the Supreme Court of Canada—the highest in the land—agreed with the original decision—that the tests unfairly discriminated against women. The court would have asked whether the employer had proven that the required level of fitness was a "bona fide occupational requirement." Since there was no evidence that it was, the case for discrimination would have been made.

3. Yes, the ad does seem to be inconsistent with the *Human Rights, Citizenship and Multiculturalism Act*. The ad indirectly makes it plain that the restaurant owners are looking for servers of a specific gender and age and with specific physical characteristics. The ad thereby discriminates against men, older women, and anyone whose physical qualities don't reflect the owners' image of a "Merle's Girl."

4. Lists will, of course, vary. Here are a few possibilities you might have thought of. Note that some of these changes have made their way into everyday speech to a greater degree than others.

Former Name	Gender-Neutral Name
<ul style="list-style-type: none">• <i>serviceman</i>• <i>policeman</i>• <i>fireman</i>• <i>waiter/waitress</i>• <i>stewardess/steward</i>• <i>secretary</i>• <i>chambermaid</i>• <i>salesman/saleswoman</i>• <i>watchman</i>• <i>garbageman</i>• <i>fisherman</i>• <i>actor/actress</i>	<ul style="list-style-type: none">• <i>service technician</i>• <i>police officer</i>• <i>firefighter</i>• <i>server</i>• <i>flight attendant</i>• <i>administrative/executive assistant</i>• <i>room attendant</i>• <i>salesclerk</i>• <i>security officer</i>• <i>garbage collector</i>• <i>fisher</i>• <i>actor</i>

5. Were you able to find any? If you get into the habit of looking for violations of anti-discrimination laws in this way, you may be surprised at what you discover. Most discrimination of this sort isn't done consciously, but it can have the same effect as deliberate discrimination.
6. No, it's unlikely that diabetes would prevent Mark from discharging his duties as an accountant. His employer would be unable to make the case for a bona-fide occupational requirement.
7. Positions on this issue will, of course, vary. Proponents of affirmative action believe that it's important to get excluded minority groups into positions where they can be successful and serve as role models for others, and that temporary programs put in place to make this process easier for them are therefore justifiable. They point out that since it's generally people in traditionally advantaged groups—like white males—who are doing the hiring, there must be laws to help disadvantaged groups until things even out. Opponents, on the other hand, believe that discrimination on the basis of an irrelevant characteristic such as gender or skin colour always victimizes someone and is never justifiable. An able-bodied white male is being victimized, they say, just as much as anyone else if he's refused a job because of affirmative action. It's an interesting question, isn't it?

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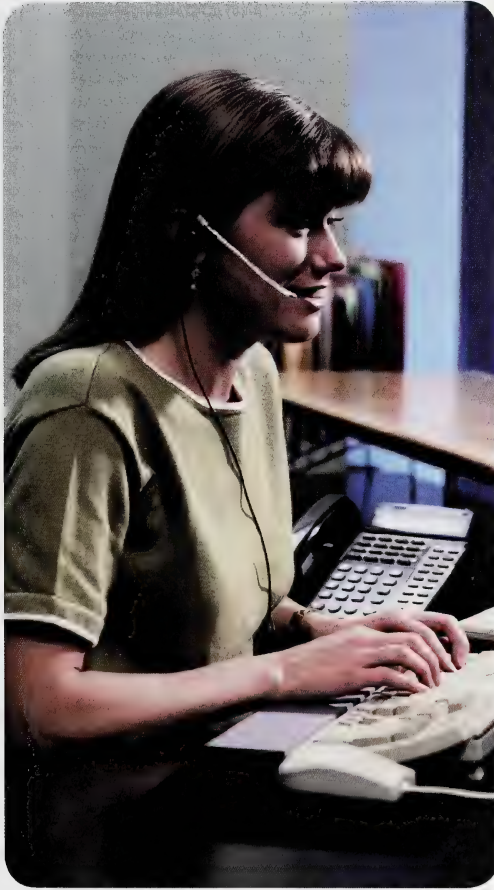
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Lesson 4: Rights and Responsibilities on the Job



You've been through the hiring process, and you've got the job. What are your rights and responsibilities—and those of your employer—now? In this lesson you'll look briefly at some of the laws that affect what goes on at the workplace.

Employees' Responsibilities

Like employers, employees have responsibilities. As you read in Lesson 2, according to the common law, an employee has a responsibility to

- be punctual and take only permitted leaves of absence
- obey orders as long as they're legal and not unreasonable
- be loyal, honest, and competent

A business will often have a code of ethics that it wants its employees to follow. In addition, there may also be a dress code and a code of conduct; these may be included in a contract of employment. If so, violation of these codes may be considered grounds for an official reprimand or even dismissal.

non-competition clause: a clause in an employment contract designed to limit competition—usually by restricting where and when an employee may work after leaving the current employer

Some employment contracts contain what's called a **non-competition clause** (or a **restrictive covenant**). Under clauses of this sort, an employee agrees not to set up a competing business within a certain geographic area for a stipulated length of time should his or her job with the current employer come to an end.

Clauses like this are included to make sure a person doesn't come to work for someone just long enough to learn the business and then set up a competing business down the street. Employees who sign non-competition clauses undertake the responsibility to abide by them, though such clauses are always subject to review by the courts to make sure they don't restrict the employees' rights unfairly.

1. Sandra has been employed in a small town as a hairstylist with Giselle's Beauty Shoppe for the past three years. Sandra has quite a large client base, and many customers won't have anyone else at Giselle's touch their hair. As a result, Sandra has decided to open her own salon in the same town.

- a. How will this affect Giselle's business?
- b. What could Giselle have done to prevent this?



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Equality on the Job

You've already seen in this course how laws like Alberta's *Human Rights, Citizenship and Multiculturalism Act* work to ensure that during the hiring process employers can't discriminate against applicants on the basis of factors like race, age, and gender. Of course once on the job, workers continue to need protection against unfair treatment. Probably the type of on-the-job discrimination people hear about most often these days is sexual discrimination.

Tell me about it! I mean, there are still companies that pay women less than men for doing the same job—or for a job that's just as hard and important. Or maybe the company gives women all the low-paying, unskilled jobs the men don't want. And then there's the whole problem of sexual harassment.



It certainly is true that gender discrimination like this is all too common, but the situation has improved greatly in recent years, thanks in large part to human rights and civil-rights legislation. For example, Alberta's *Human Rights, Citizenship and Multiculturalism Act* prohibits employers from paying their employees of one gender at a lower rate from those of the other gender for work that's substantially the same.

2. Radmila, an apprentice cabinetmaker, became upset when her employer gave her too many menial tasks to do, restricted her professional training, and paid her less than her male colleagues. Could she successfully file a complaint with the Alberta Human Rights and Citizenship Commission? Explain your answer.

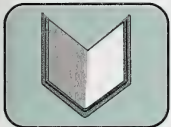
3. Despite laws like the *Human Rights, Citizenship and Multiculturalism Act*, women still frequently get paid less than their male counterparts (though statistics show they're catching up).

- Alone or with your classmates, generate a list of **six or seven** jobs in which women have traditionally earned less money than men.
- Suggest reasons why this situation still exists.
- Now suggest ways in which the situation can be corrected.

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

harassment:

unwelcome
behaviour
toward another
(who is often in
a subordinate
position)



**poisoned work
environment**

harassment:
employment
harassment in
which one person
is subjected to
hostility and
rejection by
coworkers because
of some perceived
difference

quid pro quo

harassment:
employment
harassment that
involves a person
in a position
of authority
demanding favours
in return for fair
or preferential
treatment

Sexual **harassment** is a work-site problem you're probably well aware of. Alberta's Human Rights and Citizenship Commission considers harassment on the basis of gender to be a violation of the *Human Rights, Citizenship and Multiculturalism Act*.

Turn to page 576 in your textbook and read the material under the subheading "Harassment"—as far as, but not including, the case study on page 577. Then answer the questions that follow.

The passage you've just read explains something called **poisoned work environment harassment**. Another sort of harassment, sometimes called *quid pro quo* harassment (from the Latin meaning "something for something"), occurs when a boss uses his or her power to get favours from employees—often sexual favours.

4. Iona went to work in a warehouse and discovered that she was the first woman ever to be employed there. She quickly began to sense that the other employees resented her presence. They were rude to her, never included her in coffee-break card games, and went out of their way to isolate her.

What sort of harassment is this—*quid pro quo* or poisoned work environment?

5. Brad's boss, Ms. Meier, called him into her office one day and, in the course of a conversation, let him know that she wanted him to accompany her to a party that Saturday as her date. Two implications were all too plain to Brad: this would be just the beginning of further "requests" of this sort and, if Brad refused, his career in that company was probably over.

Identify the type of harassment here and explain what Brad could do about it.





6. Read the case *C.D.P.D.J. (Lippé) v. P.G. du Québec, T.D.P.Q. Montréal* on page 577 of your textbook; then answer the questions that follow.
- What type of harassment was at work in this case—*quid pro quo* or poisoned work environment?
 - This case involved the word of Lippé against that of the defendants. Suggest a reason why the court would have believed Lippé.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Going Further

For a fairly in-depth look at the laws surrounding sexual harassment in Alberta, go to the following website operated by Student Legal Services of Edmonton. There, click on “Sexual Harassment in the Workplace” on the right-hand side of the screen.

<http://www.slsedmonton.com/civil/index.html>



Wrongful Dismissal

In Lesson 2 you were introduced to Alberta’s *Employment Standards Code*. You should recall that the summary entitled “Employment Standards Guide” (in the Appendix of this Student Module Booklet) has a section called “Termination of Employment” that lays down how much notice employers must give workers whose employment is being ended.

7. Turn to this summary now and indicate how much notice an Alberta employee must be given after
- one month’s continuous employment
 - six months’ continuous employment
 - ten years’ continuous employment



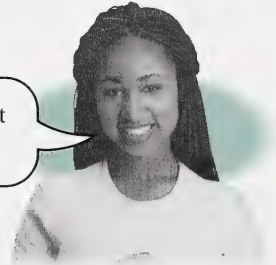
Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

wrongful dismissal: the termination of employment by an employer either without just cause or without giving reasonable notice

Wrongful dismissal is the legal term used when an employee is let go by his or her employer without receiving proper notice or when some other aspect of employment law is broken. If an employee takes a former employer to court for wrongful dismissal, the court will usually look for two factors:

- First, the court checks to see if “reasonable notice” was given. This means essentially that the *Employment Standards Code* was followed, but sometimes the court will decide for itself what “reasonable notice” is. At the very minimum it must live up to the terms stipulated in the statute; but if an employee has worked for a company for many years, or had a position of responsibility—or if there are other factors in play—the court may decide that even more notice should have been given. The courts tend to regard the *Code* as only outlining the minimum standards that must be met.
- Second, the court looks to see if there was “just cause” to dismiss the worker. If, for example, an employee was stealing from the company, regularly coming to work drunk, or always insolent and unwilling to carry out orders, the court might decide that the normal notice wasn’t necessary.

What if someone’s trying hard but he or she just can’t do the job? Does reasonable notice have to be given?



The courts will sometimes consider incompetence to be “just cause,” but it has to be pretty severe. If it’s not, the courts will insist on reasonable notice.



constructive dismissal: the forcing of an employee to resign through tactics like demotion, unreasonable job demands, and transferral to a less-desirable location

To learn more about unjust dismissal, turn to pages 583 and 584 of your textbook and read the material under the subheading “Termination and Dismissal,” noting in particular the expression **constructive dismissal**. Then answer the following question.

8. Duane was reasonably competent at his job. Unfortunately, however, he seemed to irritate everyone around him, including his employer, Mr. Hathiramani. To get Duane to quit his job, Mr. Hathiramani began to give him tasks he just couldn’t do and insisted that they be done in short order. When this didn’t work, he demoted Duane and transferred him to a part of the plant where he knew his allergic sensitivities to chemicals would make his life miserable.

As a result, Duane did quit his job, but he took Mr. Hathiramani to court for wrongful dismissal. Would Duane be likely to win the case? Explain your answer.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

Going Further

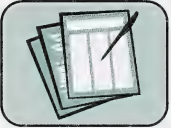
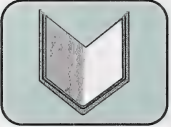
Try one or more of the following suggestions:

- To learn more about wrongful dismissal and other issues surrounding termination of employment, you'll find a number of fact sheets at the Canadian Legal Faqs website, operated by the Alberta Real Estate Foundation. Here's the address:

<http://www.law-faqs.org/ab/lab-lay.htm>

You can also get information on the phone, toll free, from Dial-A-Law, a service of Calgary Legal Guidance and the Alberta Law Foundation. Dial 1-800-332-1091 (in Calgary, 234-9022). Go to recording 611.

- An interesting issue in the area of labour law is the right of employers to conduct drug or alcohol tests on their employees. Read the Issue "Should Alcohol and Drug Tests of Employees Be Allowed" on pages 578 and 579 of your textbook. Then in a group or with a partner, discuss or debate the four questions on the bottom of page 579. Always be sure to give reasons for your viewpoints.
- In a Going Further suggestion in Section 1: Lesson 2 of this course, it was suggested that you keep an eye on the news for human rights stories and perhaps keep a scrapbook or bulletin-board display of relevant articles. Many human rights stories do centre around employment law—stories, for example, on sexual harassment, dismissal due to sexual orientation, discriminatory hiring practices, and so on. You might want to keep a separate collection of labour-related stories and make a display of them.



In Lesson 4 you've looked at some of the fundamental legal issues involved in employment law, with an emphasis on employees' rights and responsibilities. Lesson 5 will continue this investigation, but the focus will shift slightly to look at programs designed to help workers in financial need.

Suggested Answers

1.
 - a. Most of the customers who like Sandra's work will undoubtedly go to her new salon, decreasing the business Giselle gets.
 - b. Giselle could have included a non-competition clause in Sandra's employment contract, preventing Sandra from opening a competing business in the small town for a stipulated period of time. Such clauses can't be too broad, however; Sandra couldn't be prevented from opening up a business forever or from opening one up in a nearby town.
2. Yes, Radmila probably could file a successful complaint if she could establish that she was being treated differently from her male colleagues in the ways described.

Section 7(1) of Alberta's *Human Rights, Citizenship and Multiculturalism Act* states that no one can discriminate with regard to employment on the basis of race, religion, colour, gender, disability (mental or physical), age, ancestry, marital status, place of origin, family status, or source of income.

3.
 - a. Lists will vary. Here's one student's list with which you can compare your own, though you likely thought of many more jobs:
 - restaurant servers
 - chefs
 - hairstylists
 - entertainers
 - salesclerks
 - professional athletes
 - bank personnel
 - b. Reasons will vary. Traditionally it was felt that because men were usually the principal breadwinners in families, it was fair to pay them more. This thinking still lingers. Another factor is that men frequently get promoted faster and get hired for better positions within their occupations (expensive restaurants, for example, often have male servers while women are more likely to work in family restaurants). Another reason is that women often interrupt their careers to have children and raise families.

Did you think of other reasons?
 - c. Suggestions will vary, but most suggestions involve somehow changing the different values society puts on male and female labour. Fortunately this change seems to be occurring, although it's not a fast process.
4. This is poisoned work environment harassment.
5. This is *quid pro quo* harassment. Brad could file a complaint with the Alberta Human Rights and Citizenship Commission, though he'd be advised to try to sort things out with his boss before taking this step. Brad needn't fear dismissal if he does take this step. His employer is legally forbidden to fire him in this situation.
6.
 - a. This is an instance of poisoned work environment harassment.
 - b. Lippé had kept a daily record of events. Detailed documentation of this sort is very important in cases like these, where vague charges often can't be substantiated. Another factor, not mentioned in the case study, is that Lippé got support from other female employees.

7. a. After one month's continuous employment, an employee can be dismissed without notice.
b. After six months' employment, an employee is entitled to one week's notice.
c. After ten years' employment, an employee is entitled to eight weeks' notice.
8. Duane might very well win this case. What went on here is what's called *constructive dismissal*, and if an employee can establish the facts, he or she has the same rights as a worker who has been wrongfully dismissed.

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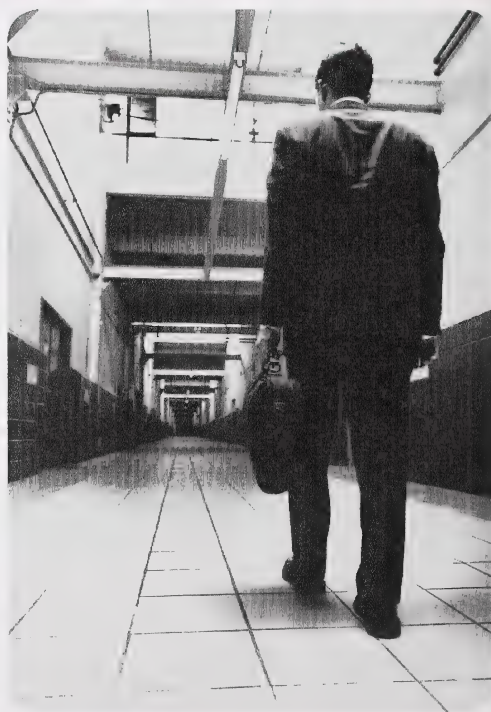
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Lesson 5: Financial Help for Workers in Need

What happens to workers who are injured on the job so badly that they can no longer work? What about those simply forced to take time off work until they recover from their injuries? Is there any money available to help them out? Are they entitled to financial help even if their injuries were due to their own carelessness? If so, who decides on what help the injured workers will receive—and how much they'll get.

What help is there for employees who lose their jobs? And if an employee has a baby and takes time off to care for the child, is there any financial help available to her? What about a male employee who becomes a father? And what if an employee adopts a child? Will this person receive financial help?

As you've seen, at one time these people—and their families—would have been entirely on their own; after all, they'd contracted with an employer to work, and if they could no longer do the job, or if they were laid off, the contract was over. Today, fortunately, things are different, and in this lesson you'll get an introduction to some of the help that now exists for workers in need.



Employment Insurance

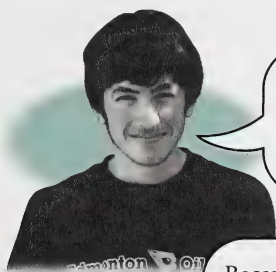
Unemployment. It's a word we hear every day, it seems. Economists are always watching the employment figures in an attempt to judge how well the economy is performing; and on a personal level, short of a serious illness, an accident, or the death of a loved one, few things in life are as devastating as the loss of a job.

Fortunately, laws and programs exist to help people who suddenly find themselves unemployed.

Unemployed Canadian workers have been collecting government payments since 1942 from **employment insurance**, often called simply EI. (Until a few years ago, it was known as *unemployment insurance*, or UI, and many people still use these expressions.) Basically, the system works like this: workers and their employers both make monthly contributions into an employment-insurance fund; then, if the workers get laid off after having worked a minimum length of time, they can collect money from this fund for up to 45 weeks as they search for another job.

The rules of the EI system are rather complex, and they change from time to time. Put simply, at present, depending on the unemployment rate in the part of the country where you live, you have to have worked from 420 to 700 hours to qualify for payments if you lose your job; 910 hours if you're entering the work force for the first time.

employment insurance: a system whereby working people make regular financial contributions to create a pool of money from which contributors can withdraw if they lose their jobs



You mean that because I live somewhere where there's low unemployment, I'm expected to work longer before I qualify for payments if I lose my job? How come?

Because it should be easier for you to get and keep a job here than it would be somewhere with chronically high unemployment rates.



But that's not fair. That means that someone in another part of the country can legally work less than I have to and collect more money in insurance. That's money I'm contributing.

True, but would you willingly trade places with that person and live somewhere where work is scarce and you have to rely more on the government? Remember, the system is designed to help Canadians who've lost their jobs till they can get back on their feet; and the need is greater in some parts of the country than in others.



The EI system isn't just for people who get laid off. Workers who become too ill to work or who have (or who adopt) children are also entitled to special benefits if they meet the basic requirements. In cases like these, you have to have worked a minimum of 600 hours in the previous year to qualify.

To figure out how much you can claim in EI benefits, the government takes your average earnings in the 26 weeks just prior to your job loss and a mathematical calculation is then done. Then you'll start receiving regular cheques, but this isn't meant to support you in a life of idleness; if you've lost your job, the government expects you to be actively looking for another and to take a reasonable job offer when it comes along. They'll monitor you closely; and if they find out you're not really trying to go back to work, your benefits will likely be cut off.



One thing to remember: if you do lose your job, you won't just automatically start receiving EI cheques in the mail. You have to apply to get employment insurance and fill out the appropriate forms. These are available from your local Human Resources Development of Canada (HRDC) office, or you can get them online at this address:

http://www.hrdc-drhc.gc.ca/ae-ei/employment_insurance.shtml

If you lose your job you should apply for payments right away; there's a two-week waiting period for which no benefits are paid, and then it will likely be another few weeks before cheques begin to arrive.

Going Further



Go to the Internet address presented above and see what else you can learn about employment insurance. One thing to notice is that the Canadian government doesn't want you unemployed for long; after all, it's costing them money. For this reason, the government does give unemployed workers help in finding new employment.

If you click on the "Looking for Work" button, you'll get an idea of some of the help that's waiting out there for you should you ever require it.

Workers' Compensation

What happens if you're injured on the job and as a result can't work? In Alberta, the *Workers' Compensation Act*, a provincial statute, provides for a program known as **workers' compensation**, administered by the Workers' Compensation Board, that gives financial support for employees who find themselves in this position.

workers' compensation:
a system whereby benefits are paid to workers injured on the job or suffering health problems related to the workplace

Every province in Canada provides compensation for injured workers, though the rules do vary a bit. To get a general idea of how the system works, turn to page 586 in your textbook and read the material under the subheading "Workers' Compensation." Then answer the questions that follow.

1. Workers' compensation is a kind of no-fault insurance program. Explain what this means.
2. Who contributes to the fund of money out of which workers' compensation benefits are paid?
3. Before workers' compensation existed, what did employees have to do if they were injured on the job and wanted compensation? In your answer, explain why this system didn't work well.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Most Alberta employees are covered by the Workers' Compensation program. If one of these employees is hurt on the job, that employee can collect from a fund until he or she can return to work. The fund is paid for completely by employers.



What if I get hurt in a car accident driving to work?

Or what if I don't get hurt, but I get sick because of my job—like working with chemicals, for instance?



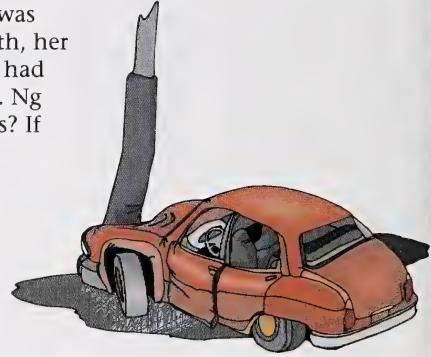
You can't get compensation driving to work—unless, of course, you're in a company-operated vehicle. But if you get too sick to work, and you establish that the illness was caused by your job, you're entitled to compensation.



The amount of compensation you get depends on how badly you're hurt; if you're totally disabled, you can get 90 percent of your usual earnings; if you can still do some work, the Workers' Compensation Board will determine how much you'll receive. If you're killed in an accident on the job and you have a spouse who's financially dependent on you, your spouse will get what you would have received if you'd been totally disabled.

As with EI, you must report an injury on the job immediately.

4. Mrs. Ng was killed when the scaffolding she was working on collapsed. At the time of her death, her net earnings were \$800 a week. Her husband had lost his job several months earlier. Would Mr. Ng be entitled to workers' compensation benefits? If so, how much would he likely get?
5. Maurice was seriously injured while driving from his office to a meeting where he was to present his company's new line of products. He can no longer work. Can he make a claim for workers' compensation? Explain your answer.



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Going Further

The Workers' Compensation Board of Alberta operates a website where you can obtain a great deal of specific information on the province's policies and procedures. If you'd like to check out the site, here's the address:

<http://www.wcb.ab.ca/home/>

If you'd like a summary of the main points involved in workers' compensation, you can phone Dial-A-Law and listen to recording 621. The toll-free number is 1-800-332-1091 anywhere in Alberta or 234-9022 in Calgary.



In Lesson 5, you've had an introduction to employment insurance and workers' compensation. Of course, there's a great deal more to learn, and when the time comes when you're out in the work force (and of course you may already be there), you should make it your business to learn all you can about the availability and the workings of programs like these. Meanwhile, consider taking Legal Studies 2020: Labour Law.

Assignment

Now open Assignment Booklet A, and answer the questions asked in the Section 2 Assignment.

Suggested Answers

1. With a no-fault insurance program, benefits are paid to injured people even if their own actions might have contributed to their injuries. This way, employers can't shift some or all of the blame of workers' injuries back onto the workers themselves.
2. Only employers pay into the workers' compensation fund.
3. Before workers' compensation, an injured employee would have to sue—that is, bring a legal action against—his or her employer. This would involve having to prove that the employer was at fault. It would also involve hiring lawyers and paying legal fees—often very costly fees. Since most workers couldn't do this—while, of course, their employers could—few cases were fought, and fewer won.
4. Yes, Mr. Ng would likely be entitled to workers' compensation benefits since, at the time of his wife's death on the job, he was financially dependent on her. He should receive the amount Mrs. Ng would have been awarded if she'd lived but been totally disabled—90 percent of her earnings, or \$720 a week. Note, however, that Mr. Ng wouldn't receive this money for life; he'd be expected to return to work as soon as possible.
5. Yes, Maurice can make a claim since his injuries occurred while he was on the job. The fact that he wasn't actually at the office doesn't matter since the injury happened in the course of his duties.

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Section 2 Conclusion



In Section 2 you've investigated some of the basics of labour law. You've seen that the workplace is governed by laws at different levels. First, there's the contract for employment between worker and employer (and, in the case of unionized workers, between the union and the employer). Then there are statutes passed by either the provincial government (for example, Alberta's *Occupational Health and Safety Act*, *Workers' Compensation Act*, and *Employment Standards Code*) or the federal government (for example, the *Employment Insurance Act* and the *Canada Labour Code*). Finally, there are the old common-law decisions, made by judges, that are still in effect in areas where statutes haven't overridden them.

You should now be able to identify the principal rights and responsibilities of employers and employees and to explain the need for laws governing the workplace. In the next section you'll take a broader perspective and look at how our legal system works to protect both individuals and society from wrongs committed against them.

SECTION 3

Protecting Society and Ourselves



How much direct contact have you had with the legal system? If you're like most Canadians, the answer is probably very little. Though most people may be stopped once in a while as part of a Checkstop program and receive the odd parking or speeding ticket, that's about the extent of their direct contact with the police and/or the courts.

But what if you accidentally injured someone in a car accident and found yourself in court? What if you were arrested and charged with a criminal offence? Would you know your rights or the steps you should take in what would probably be a rather frightening experience?

In Section 3 you'll look at criminal wrongs and civil wrongs. When you've finished the section, you should be able to explain the difference between the two, describe the treatment of minors under the law, identify the various courts in the Canadian system, and identify and explain a few common crimes and their consequences.

Lesson 1: Criminal Wrongs and Civil Wrongs



crime: *an act forbidden by law and for which the government has the power to punish*

The Difference Between Criminal and Civil Wrongs

People often use words and phrases like *crime*, *criminal*, and *criminal act* in conversation, and we all think we know what they mean; but do you know precisely what makes an act a crime?

1. Take the Crime-Awareness Test that follows and see how well you do. The questions are about Dave and Orasia, a couple who were recently engaged to be married but whose relationship has become rather rocky. Simply identify which of the actions described in the test would be considered a **crime** (the margin definition of crime may help you here).
 - a. Dave slapped Orasia across the face in a restaurant.
 - b. Orasia sent a letter to Dave's employer untruthfully saying that Dave has a drug problem.
 - c. Orasia cut up Dave's jacket, which he'd left in her apartment.
 - d. In retaliation, Dave took Orasia's car and drove it into a city bus shelter.
 - e. Dave asked Orasia to return her engagement ring, but she refused.
 - f. Suspecting that Dave had another girlfriend, Orasia read his e-mail one day while alone in his office.
 - g. Dave began hanging around Orasia's apartment at night, waiting in his car and watching.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

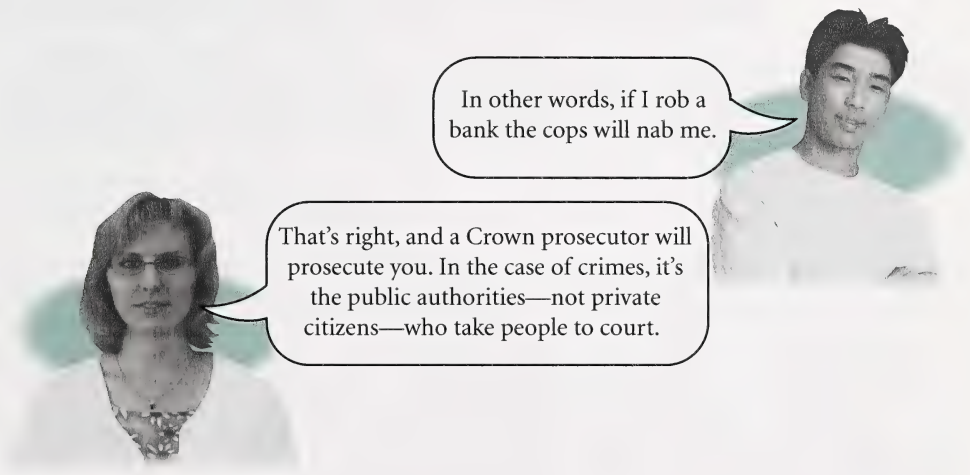
As you can see, sometimes it's hard to tell the difference between a crime and a non-criminal wrong. There is, however, a distinction.

criminal law: the branch of law that sets out certain acts as crimes and punishes those acts

civil law: the branch of law that governs the relations between individuals

Criminal law is usually distinguished from **civil law**, and it's important that you understand the difference before going on.

Criminal law is a type of public law: that means it concerns the relationship between people and their government. Some acts that people perform are judged by the state—that is, the government—to be so harmful to society as a whole that they're called *crimes*. If people are known to have committed crimes, the state authorities will apprehend them and punish them.



By contrast, civil law, or private law, is the law that governs the relationships between individuals; the state authorities have nothing to do with it. For example, if you trespass on your neighbour's property or don't pay a store for the stereo you bought on credit—or if someone trips over debris you left on your sidewalk and breaks a hip—the police won't come after you. In these cases, the wronged individual has to take you to court in a civil action to get some form of compensation.

2. Classify each of the following situations as an issue involving either criminal or civil law.
- a. A fired employee brings a legal action against her employer for wrongful dismissal.
 - b. A 14-year-old girl is charged with an offence under the *Youth Criminal Justice Act*.
 - c. A rock singer who had contracted to put on a concert fails to show up for the performance.
 - d. A driver finds himself in court after failing to pass a sobriety test.
 - e. A customer is accidentally poisoned in a restaurant after a cook negligently mixed up the ingredients in the food the customer ate.
 - f. The owner of a convenience store is prosecuted for selling cigarettes to a minor.

- g. A landlord wants financial compensation from a tenant who has damaged the apartment he's renting.
- h. In order to make a good story, a writer of magazine articles makes up some highly uncomplimentary "facts" about a show-business celebrity.



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

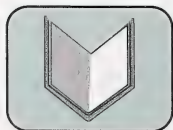
So far so good. The distinction seems clear: criminal law concerns itself with *crimes*, and the state authorities will prosecute wrongdoers, while civil law concerns itself with wrongs individuals (or organizations) commit against each other.

Things become a bit more complex, however, because some wrongs can land their perpetrators in court in both criminal cases and civil suits. Here's an example:

Frances is driving home from the bar where she's been drinking heavily all evening. In her intoxicated state, Frances hits a pedestrian at a crosswalk, killing him. The man, Mr. Ling, was married and had two children.

Frances will likely be charged by the authorities with the crime—or the criminal offence—of impaired driving causing death. She'll go to trial and, if found guilty, she may get a life sentence in jail. If there are mitigating circumstances, she may be sent to jail for a shorter time; she'll also likely lose her driving privileges and will probably have to attend counselling sessions to deal with alcohol abuse. These are steps that are taken to protect society against individuals like Frances.

But what about Mr. Ling's family? They've suffered a great loss. The fact that Frances has been imprisoned and lost her driving privileges may be of some satisfaction to them, but it does nothing to replace the love and companionship of a family member—not to mention the financial support. If they wish to, Mr. Ling's family could take Frances to court in a civil action in hopes of receiving financial compensation for their losses. So Frances could easily end up with two court cases on her hands—a criminal trial and a civil suit.



Your textbook will help you get a better understanding of the distinction between civil law and criminal law. Read the following selections in turn:

- the two paragraphs at the bottom of page 7 under the sub-subheading "Criminal Law"
- the five paragraphs on pages 8 and 9 under the subheading "Private (Civil) Law"
- the material on pages 103 and 104 in section "4.1: Introduction," including the material under the heading "The Need for Criminal Law."

As you read—or when you've finished—answer the questions that follow.

3. What level of government in Canada is responsible for criminal law—federal or provincial?
4. Identify **three** Canadian statutes that deal with criminal law.
5. What is another name for civil law?
6. How does the level of proof differ in a civil case and a criminal case?
7. Civil law is intended, as much as possible, to redress (set right) a situation where one person has harmed another. What are some of the different functions people believe criminal law should have?

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Civil Law at Work

In your readings you saw that civil law has several areas. But a simpler system is to break it down into two principal branches. They are

- contract law
- tort law

tort: a civil wrong other than a breach of contract

Contract law simply deals with situations in which two or more parties make a contract with each other and one side, it is claimed, fails to live up to its obligations to the other. If, for example, you contract to repair your neighbour's porch, but you don't do it or you do a slipshod job, your neighbour might bring a civil action against you in contract law. By contrast, tort law really includes all types of civil wrongs that don't involve contract disputes. If you drive your car through your neighbour's prize rose bushes, manufacture a food product that makes people sick, keep a dog that bites a child, or threaten your spouse, you've committed a tort.

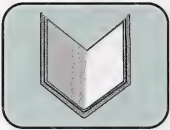
Legal Studies 1010 deals with the basics of contract law, but tort law is probably new to you. Therefore, the discussion that follows will focus principally on this type of civil law.



8. In the chart that follows, put a check (✓) beside each of the actions that is a tort.

Jason goes hunting on a farm despite a "No Trespassing" sign.	
Tasha locks her elderly mother in her bedroom for two weeks.	
Yuri refuses to pay for a taxi ride he's taken.	
The DEF Company manufactures a blow dryer that sets Melanie's hair on fire.	
Tabitha leaves her car parked on a hill in neutral; it rolls down and kills a child.	
Leon holds up a convenience store.	

Turn to the Suggested Answers at the end of this lesson and compare your chart with the one given there.



To get a better understanding of tort law, open your textbook and read everything in sections "11.1: Introduction" and "11.2: Crimes and Torts" on pages 311 and 314 of your textbook. Note that you can skip the Issue on pages 312 and 313. Then answer the following questions.

9. The reading you've just completed speaks of damages. In your own words, explain what damages are and how they're used in tort law.
10. Though tort law focuses for the most part on compensating victims, what other functions does it sometimes perform? Explain your answer.

plaintiff: the party bringing a legal action against another party in civil court

defendant: the party against whom a legal action is brought in civil court or the party charged in a criminal case

damages: money awarded by a court to a plaintiff in a civil suit to compensate for a wrong suffered

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

A person who takes another person to court in a civil action is called a **plaintiff**. The person who's taken to court (or sued) is known as a **defendant**.

If a defendant is found liable for the wrong the plaintiff has suffered, the court will, as you've read, normally award **damages** to the plaintiff; in other words, the defendant will have to pay the plaintiff a stipulated amount of money to compensate for the harm done. Sometimes other remedies are used; for instance, a defendant found to have broken a contract may be made to live up to the terms of the contract. Normally, however, especially in tort cases, damages are awarded by way of compensation.

So the judge figures out how much money would, say, cover an accident victim's medical expenses, and that's what the defendant would pay in damages?



That's part of it. As well, the judge might consider things like loss of earning power, if the plaintiff were disabled, along with money simply intended to compensate the plaintiff for all the pain and suffering involved. And sometimes the judge will add more money simply to teach the defendant a lesson, though this doesn't happen often. Finally, the judge may make the defendant pay court costs—the costs of the trial—on top of the damages.

- 11.** A court has found the defendant liable for an automobile collision in which the plaintiff, a man in his twenties, was left a quadriplegic. The defendant was drunk and racing his car at high speeds on city streets when the collision happened, and he sped away from the scene.

If you were the judge in this case, what factors would you consider in determining the amount of damages to be paid to the plaintiff?

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

As you may have noticed, some torts are intentional while others aren't. If you slander someone's good name, threaten someone, or beat someone up, you're guilty of a deliberate tort. If you injure someone because of your careless behaviour, you're guilty of negligence. Either way, if a court finds you liable, you'll likely end up paying damages to the injured party to compensate that person for the harm done.

Here's an example of the law of negligence at work: Amanda purchases a blow dryer for her hair and subsequently suffers severe lung congestion. It's discovered that Amanda has been exposed to asbestos, which has caused irreparable lung damage. Amanda investigates her blow dryer, finds the asbestos, and contacts the company. The manufacturers of the blow dryer weren't aware of the danger of their product; but as soon as they find out, they recall it and provide Amanda with a cash settlement for her injury.



All this could take place outside the court system. If, however, the company were to dispute Amanda's claim, she'd then be forced to sue the manufacturer in civil court. Then the case would be settled before a judge, and the court records would become public information. These court records—precedents—would provide additional resources on file for subsequent cases.

As you've already read, it's frequently in the interests of companies to settle cases out of court—away from the spotlight of the media. For this reason, they're often happy to make cash settlements. These settlements can also save those harmed by their products a great deal of time, money, and aggravation. However, it's when cases do go to court that the public is best served because the information becomes widely known.

As new inventions are placed on the market and as changes occur in our culture, society, and the manner in which individuals interact, there are corresponding changes with respect to cases that come before the civil courts.



Going Further

Before going on to look at criminal law more closely, you might want to read the Issue on pages 312 and 313 of your textbook—especially if you're a hockey fan. If possible, use the questions that follow the discussion as the basis for a debate—formal or informal—with a partner or within a group.

Criminal Law at Work

You're probably a good deal more familiar with the idea of criminal law than with the idea of civil law. After all, almost all those dramatic courtroom scenes on TV and in the movies involve criminal cases, and it's the sensational trials of murderers and other serious criminals that are covered in the news. But do you know precisely why some actions are considered serious enough by society to be designated crimes while other aren't?



- 12.** To get a bit of information on questions like this one, read the material in section "4.2: The Nature of Criminal Law" on page 104 of your textbook. Read to the bottom of the page; then answer questions 2, 3, and 5 on the bottom of page 105.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

As you know, the federal government has jurisdiction over criminal law in Canada. That means that statutes passed by Parliament determine what acts are criminal acts. The principal statute that does this is, of course, the *Criminal Code*, of which you've probably heard quite a bit. This very lengthy statute—currently running about 1500 pages in length—identifies most of the acts considered crimes in Canada. There are other federal statutes, though, that create criminal offences; you'll recall that among them are the *Controlled Drugs and Substances Act* and the *Youth Criminal Justice Act*.

These and other criminal-law statutes are generally published together with the *Criminal Code*. Statutes like these not only identify what acts will be considered criminal; they also stipulate things like police procedures, allowable sentences, and so on.

Going Further

While it's usually easier to deal with complex legislation by reading a hard paper copy, you can access the federal statutes mentioned above—along with others—by going online to the Federal Department of Justice website. Here's the address:

<http://canada.justice.gc.ca/en/index.html>

When there, click on the “Laws” button in the upper-right-hand corner. On the next panel you can either click on the statute you want, or, if you don't see it, type in the name in the field provided—the middle one. The top field should read “Consolidated Statutes.”

13. Turn to page 106 of your textbook and read the material under the heading “The Criminal Code.” Explain what would happen if the Supreme Court of Canada found something in the *Criminal Code* or another statute stipulating criminal offences that was in conflict with the Canadian *Charter of Rights and Freedoms*.
14. Now read the material under the heading “Quasi-Criminal Law” on page 106 of your textbook. In your own words, explain what quasi-criminal law is and give an example of such a law.

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

bylaws: written laws passed by municipal governments

Another type of quasi-criminal law consists of bylaws that municipal governments pass. Laws of this sort include things like parking laws, building regulations, dog-control laws, household-garbage quotas, rules about noise pollution, and so on.



But you're not a criminal if you put out too many bags of garbage or break a provincial speed limit. Provincial statutes and municipal bylaws are called *quasi-criminal* simply because if you break them you'll be prosecuted by the authorities, not by another individual.



And that's your introduction to the distinction between criminal and civil wrongs. To round this lesson out, turn to page 317 of your textbook and study the chart entitled "Criminal and Civil Procedures Compared." The chart compares and contrasts the way civil and criminal cases are handled in the courts. Note the differences carefully; then answer the question that follows.

15. Most of the points in the chart should now be familiar to you, but two terms that are new are *onus of proof* and *burden of proof*. In your own words, explain what each of these terms means and describe how they differ in criminal and civil law.

Turn to the Suggested Answers at the end of this lesson and compare your answer with the one given there.

Now that you understand the distinction between civil and criminal law, for the most part the remainder of this section will look more closely at criminal law and how it might affect your own life. You'll begin with a look at the courts themselves. But before that, finish up this lesson by doing the little review that follows.

16. Decide whether the following acts fall into the areas of criminal law, civil law, or both. Put the appropriate words into the column on the right.

Action	Criminal/Civil/Both
theft	
breach of contract	
impaired driving	
break and enter	
assault	
slander	
non-payment of bills	
dangerous driving	

Turn to the Suggested Answers at the end of this lesson and compare your chart with the one given there.

Assignment

Now open Assignment Booklet B, turn to the Section 3 Assignment, and answer questions 1 to 3.

Suggested Answers

1.
 - a. crime (assault)
 - b. no crime
 - c. no crime
 - d. crime (dangerous operation of a motor vehicle and theft)
 - e. no crime
 - f. no crime
 - g. crime (intimidation)
2.
 - a. civil law
 - b. criminal law
 - c. civil law
 - d. criminal law
 - e. civil law
 - f. criminal law
 - g. civil law
 - h. civil law
3. Canada's criminal law is passed by Parliament—that is, the federal government.
4. Three criminal-law statutes mentioned in the readings are
 - the *Criminal Code*
 - the *Controlled Drugs and Substances Act*
 - the *Youth Criminal Justice Act*
5. Civil law is also known as private law.
6. In a criminal case, the Crown prosecutor must prove the charges against the defendant *beyond a reasonable doubt*. If the judge or jury thinks there's a reasonable doubt, they must acquit the defendant even if they suspect that he or she is probably guilty.

By contrast, in a civil case, the judge has to decide which side, on a *balance of probabilities*, is telling the truth—even if there is still some reasonable doubt. This means that the evidence needn't be as strong as in a criminal case.
7. Criminal law is designed to keep order in society and to protect people and their property rather than to compensate victims. Another role of criminal law is to prevent future crimes by discouraging would-be offenders. As well, some people believe that criminal law should also try to rehabilitate offenders.

8. Your chart should look like this one.

Jason goes hunting on a farm despite a "No Trespassing" sign.	✓
Tasha locks her elderly mother in her bedroom for two weeks.	✓
Yuri refuses to pay for a taxi ride he's taken.	
The DEF Company manufactures a blow dryer that sets Melanie's hair on fire.	✓
Tabitha leaves her car parked on a hill in neutral; it rolls down and kills a child.	✓
Leon holds up a convenience store.	

9. *Damages* is the legal term for money that a court awards a successful plaintiff in a civil suit to compensate that person for a wrong done to him or her. The defendant pays the damages. At times, damages are awarded for reasons other than compensation; an example would be damages intended to discourage other people or organizations from doing what the defendant has done.
10. As noted in the preceding answer, tort law can award damages over and above the amount needed to compensate a plaintiff in order to discourage other people from doing whatever the defendant did. Sometimes damages are awarded simply to punish a defendant for particularly reprehensible behaviour.
11. Answers will vary. Here are some of the factors you should have considered.
- medical costs the plaintiff has incurred and will continue to incur for the rest of his life
 - loss of earning power throughout what probably would have been the plaintiff's working life—until the age of 65
 - compensation for the plaintiff for the physical pain and mental anguish he's gone through and will likely continue to go through
 - punishment for the defendant because of his attitude and behaviour
 - deterrence for other people
12. **Textbook question 2:** Criminal law
- protects people and their property
 - deters potential offenders
 - rehabilitates those convicted of having committed crimes

Examples of these three functions will, of course, all be different.

Textbook question 3: When society's values change and people become more aware of the negative impact of certain sorts of actions, Parliament may criminalize them.

Textbook question 5: According to the Law Commission of Canada, an action should be considered a crime when these conditions exist:

- It harms people.
- It violates society's basic values.
- Using the law to correct the problem doesn't violate society's basic values.
- Making the act a criminal offence significantly helps solve the problem.

- 13.** If a judge in the Supreme Court finds that a law conflicts with the *Canadian Charter of Rights and Freedoms*, he or she can strike it down as unconstitutional.
- 14.** Quasi-criminal law is a law passed by provincial and municipal governments that create public offences. An example would be Alberta's *Traffic Safety Act*. Because it's the federal government that controls criminal laws, laws such as these aren't truly criminal. They're therefore known as *quasi-* (or *semi-*) *criminal*.
- 15.** *Onus of proof* is the responsibility to establish proof. In criminal law, the Crown prosecutor has this responsibility. In civil law, it's usually the plaintiff. In this respect the two types of law are the same: the party bringing the charges must prove them.

Burden of proof is a term meaning how well established proof must be. In criminal law, it must be established beyond a reasonable doubt while in civil law, it must be established on a balance of probabilities. In other words, it must be more fully established in criminal law.

- 16.** Your chart should look like this one:

Action	Criminal/Civil/Both
theft	criminal
breach of contract	civil
impaired driving	criminal
break and enter	criminal
assault	both
slander	civil
non-payment of bills	civil
dangerous driving	criminal

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Lesson 2: A Look at the Courts



Imagine that you lent someone your skis, poles, and boots for a weekend in the mountains, and then she refused to give them back. You might want to take her to court in a civil action, but would you know which court to use? If you decided to fight a speeding ticket, would you know which court your trial would take place in? You've probably heard frequent mention of the Supreme Court of Canada and the decisions it reaches, but have you ever wondered how some cases end up there while the vast majority of them don't?

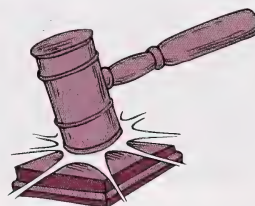
There are a number of different courts in the Canadian court system, and this lesson will give you a very basic overview of what each one is called and what sorts of cases it hears.

Alberta's Courts

To begin with, there are two systems of courts in the country—the federal system of courts, operated by the federal government, and the provincial/territorial system, operated by the various provincial and territorial governments. The provincial systems are more or less the same throughout the country, but sometimes labels change; what follows describes the Alberta system.

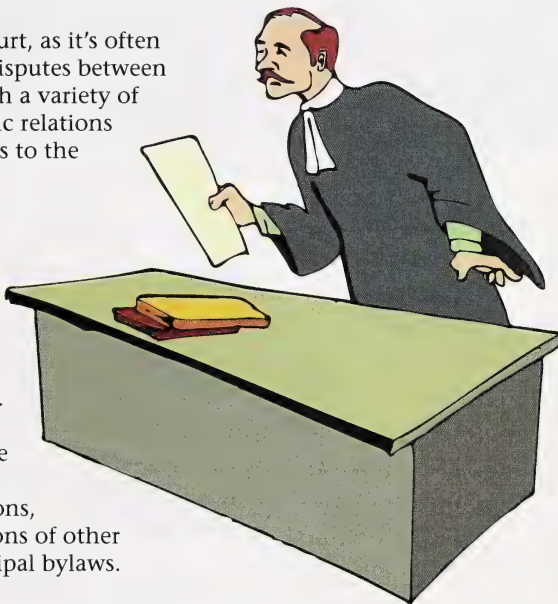
The Provincial Court

At the bottom level of Alberta's court system is the Provincial Court. This is called a *court of first instance* because it's here that cases are first heard; appeals of Provincial Court decisions are heard higher up.



The Provincial Court is split into the following five divisions:

- **Criminal Division:** All criminal cases in Alberta begin in the Provincial Court, Criminal Division; and most end up being tried here. Some more serious cases, after a preliminary hearing in this court, are tried in a higher court.
- **Civil Division:** Also known informally as Small Claims Court, the Provincial Court, Civil Division is where civil cases involving amounts of money of \$25 000 or less are usually tried, though some sorts of cases, regardless of the amount involved, must go to a higher court. Note that on page 315 of your textbook, the ceiling for a Small Claims Court case in Alberta is \$7500. This amount was recently more than tripled to give Alberta's Small Claims Court the highest monetary ceiling in the country. The reason was to increase people's access to the court system because the Provincial Court is the least complex one to use.
- **Family Division:** Family Court, as it's often called, hears cases involving disputes between husbands and wives along with a variety of other issues involving domestic relations (except for divorce, which goes to the Court of Queen's Bench).
- **Youth Division:** Youth Court deals with young people charged with criminal offences under the *Youth Criminal Justice Act*—something you'll be hearing more about in the next lesson.
- **Traffic Division:** As its name implies, Traffic Court deals principally with traffic violations, though it also handles violations of other provincial statutes and municipal bylaws.



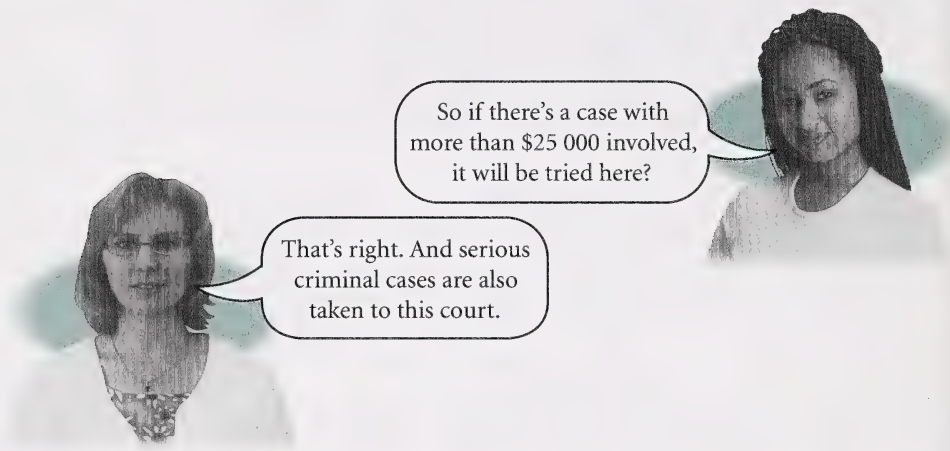
1. Name the division of Alberta's Provincial Court in which each of the following cases would be tried:
 - a. Amanda decides to fight a parking ticket.
 - b. Yves designs a web page for a local company and never gets paid.
 - c. Raquel's landlord refuses to return her security deposit even though she'd left her apartment in perfect condition.
 - d. Justin is charged with public mischief.
 - e. Louise is fighting with her former husband over custody of their children.
 - f. Khalid is arrested for shoplifting three CDs.
 - g. Ling, aged 15, faces charges of break and enter.

- h. Madison refuses to pay a car-rental company for the damaged bumper on the vehicle she rented.
- i. Josh is fined by his municipality for allowing his unlicensed dog to run free.

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

The Court of Queen's Bench

The second level of courts in Alberta is the Court of Queen's Bench. This court is a *court of first instance* for civil cases that are beyond the jurisdiction of the Provincial Court; and while all criminal cases begin in Provincial Court, the more serious ones normally end up being tried in the Court of Queen's Bench.



As well as being a court of first instance for serious cases, the Court of Queen's Bench hears appeals from the Provincial Court. This means that if you lose a case in Provincial Court and you appeal the decision, the appeal would be heard at this level (though in cases involving **indictable offences** appeals from Youth Court go straight to the Court of Appeal).

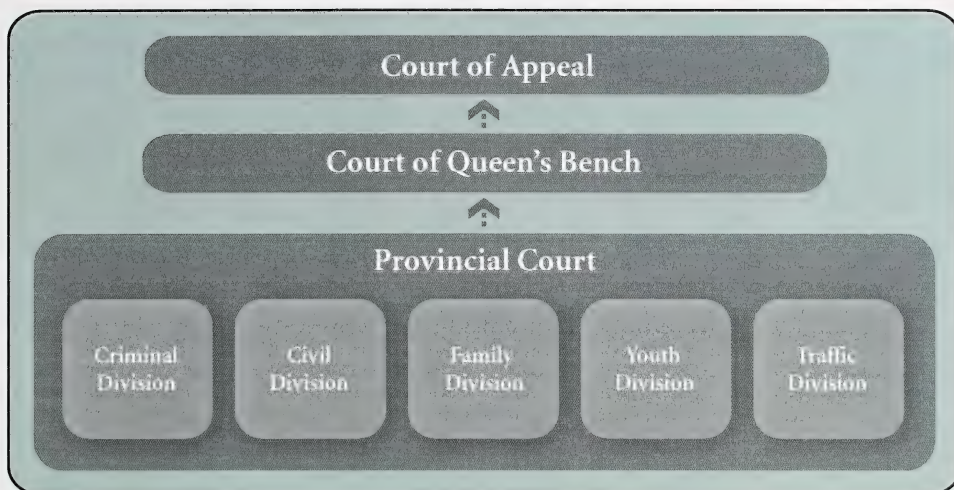
indictable offence: a serious criminal offence involving more complex trial procedures

The Court of Appeal

The highest-level court in Alberta is the Court of Appeal. As its name suggests, this is an appeal court only; original trials never take place in this court. Here, a panel of three or more judges hears lawyers argue points of law that relate to cases that have been appealed to this level from the Court of Queen's Bench or, sometimes, Provincial Court. If this court decides against you, the only appeal left is to the Supreme Court of Canada.

The diagram that follows illustrates the courts of Alberta in a visual format that may help you keep them straight.

The Courts of Alberta



*Note that appeals from Youth Court go directly to the Court of Appeal if indictable offences are involved.

2. Give **one** example of a case that would be heard in each of the courts listed below. The first one is done as an example.
 - a. Provincial Court, Criminal Division: *A man is charged with the possession of narcotics.*
 - b. Provincial Court, Civil Division
 - c. Provincial Court, Family Division
 - d. Provincial Court, Traffic Division
 - e. Provincial Court, Youth Division
 - f. Court of Queen's Bench
 - g. Court of Appeal
3. In Alberta, the Court of Appeal sits only in Calgary and Edmonton. Suggest a reason for this.

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

Though the focus here is on the various Alberta courts and their roles, you might be interested in a look inside an actual courtroom. The following diagram shows a courtroom during a civil trial.

A Trial in Civil Court



Going Further

The following website will give you more information about the courts of Alberta, but note that much of the information is rather technical.

<http://www.albertacourts.ab.ca/go.aspx?tabid=1>

Federal Courts

Along with the various provincial and territorial court systems, Canada also has a federal court system, though it's much smaller and simpler. It consists essentially of two levels:

- the Federal Court of Canada (which has both a trial division and an appeal division)
- the Supreme Court of Canada



The Federal Court of Canada

The Federal Court of Canada is a court you probably haven't heard much about. It's a specialized court dealing with cases concerning the federal government—such as taxation problems or disputes between the provinces. Cases involving trademarks, patents, and copyright also come before the Federal Court of Canada.

This court has both a Trial Division, where cases are first heard, and a Court of Appeal. So if a case originally heard in the Trial Division of the Federal Court is appealed, the appeal is heard in the Federal Court of Appeal. Any appeals beyond this level go to the Supreme Court of Canada.

4. In the spring of 1997 a national lobby group called the Council of Canadians launched an appeal to the Federal Court of Canada concerning the takeover of many Canadian newspapers by the company called Hollinger Inc. The Council of Canadians felt that Hollinger's control of Southam, the country's largest chain of newspapers, would restrict freedom of the press in Canada.

The Federal Court of Appeal ruled that the Council of Canadians had waited too long before launching its review and refused to hear the appeal. The Council now has the right to appeal to the Supreme Court of Canada.

- a. Why would the Council of Canadians launch its appeal through the Federal Court of Appeal?
- b. If most of the newspapers in Canada were owned by the same person or company, what danger is posed to news coverage in the country?

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

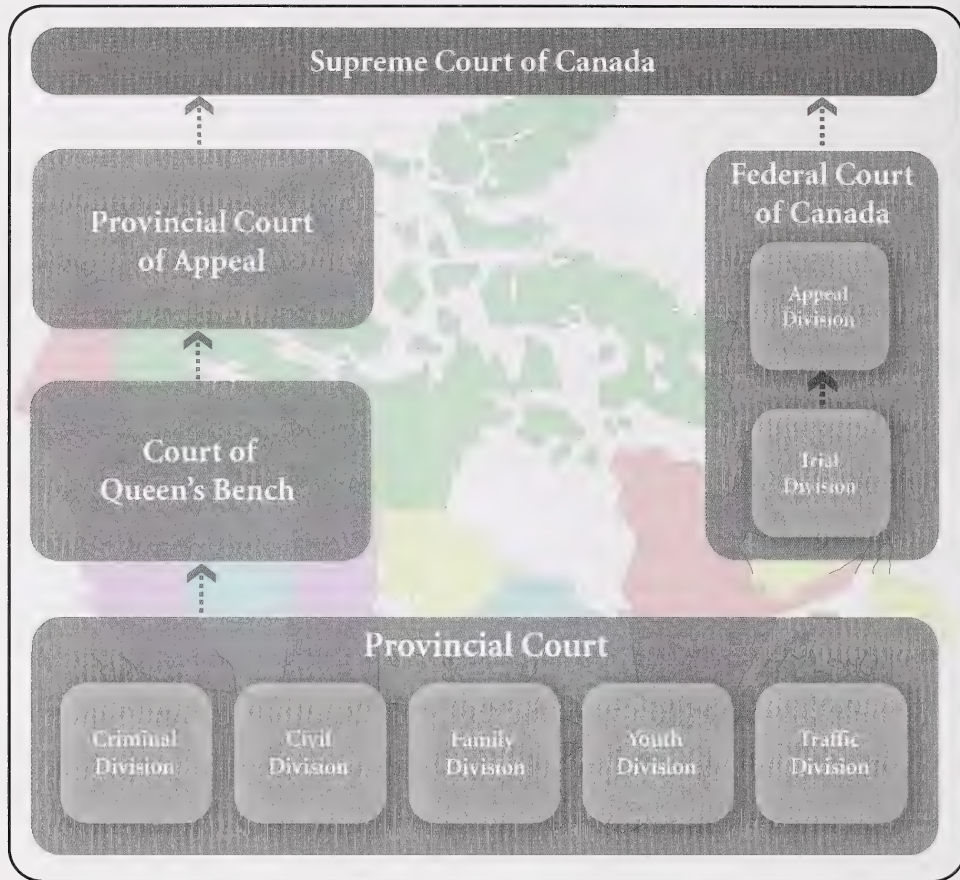
The Supreme Court of Canada

The highest court in the land—and the one you've probably heard most mention of—is the Supreme Court of Canada. This court is an appeal court only; it hears appeals of cases from both the Federal Court of Appeal and the Court of Appeal of each province and territory. The Supreme Court normally agrees to hear an appeal from one of these courts if the case has some importance for Canadian law; though in some situations appeals automatically go to the Supreme Court.



The Supreme Court consists of the Chief Justice of Canada and eight other judges appointed by the Governor General-in-Council (in other words, by the government of Canada). Supreme Court judges must retire at the age of 75.

You've already seen a diagram of Alberta's court system. What follows is a diagram of both the provincial and federal court systems.

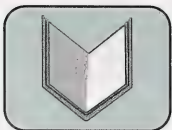
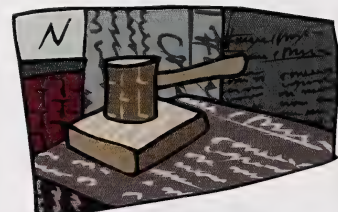


*Note that appeals from Youth Court go directly to the Court of Appeal if indictable offences are involved.

At first glance the court system may look a little confusing; but if you've worked through the material in this lesson carefully, it should have become relatively clear. Of course, there's a great deal more to learn about Canada's courts and how they operate, but that's beyond the scope of this course. If you'd like to read another brief description of the court system, read the following selections from the textbook:

- section "4.7: Our Criminal Court System" on pages 115 and 116
- section "11.3: Civil Courts" on pages 314 and 315

These readings divide up the courts into criminal and civil, but for the most part they're talking about the same courts performing different functions. Note, however, that because the text isn't specific to Alberta, the discussion is a bit more general.



Going Further

Try one or both of the following suggestions:

- If you're curious about what goes on in a courtroom, why not find out when trials are taking place in a courthouse close to you and attend a few? Remember, trials are open to the public; anyone can attend a trial. Watching what goes on in a real courtroom—as opposed to dramatizations on TV—will be an interesting and educational experience.
- By watching the news on TV, by listening to the radio, or by reading newspapers, try to find a recent example of a case the Supreme Court of Canada has been asked to hear. Describe the case and explain why it involves an issue the Supreme Court should decide.

5. To finish up this lesson, test yourself one more time. In the chart that follows, determine which court would hear the case resulting from each situation described in the left-hand column. Choose from the following list:

- Supreme Court of Canada
- Federal Court of Canada
- Court of Appeal
- Court of Queen's Bench
- Provincial Court (PC)
 - Criminal Division
 - Civil Division
 - Family Division
 - Youth Division
 - Traffic Division



Situation	Court
A 14-year-old commits a theft.	
A case arises involving Canada's railroad system.	
The Court of Appeal hears a case involving important legal principles, but no one is satisfied.	
A woman decides to fight a speeding ticket.	
A man accidentally backs his car over a neighbour's mountain bike.	
A party to a case tried in the Court of Queen's Bench is unhappy with the decision.	
A car manufacturer builds a car with faulty brakes, and a consumer is disabled in a resulting accident.	

Turn to the Suggested Answers at the end of this lesson and compare your chart with the one given there.

In this lesson you've had an overview of Canada's—and Alberta's—court systems. Now that you understand the basics of the court structure, it's time to look at something that you might find interests you more directly—the laws affecting young people charged with criminal offences.

Assignment

Now open Assignment Booklet B, turn to the Section 3 Assignment, and answer question 4.

Suggested Answers

1.
 - a. Traffic Division
 - b. Civil Division
 - c. Civil Division
 - d. Criminal Division or Youth Division, depending on Justin's age
 - e. Family Division
 - f. Criminal Division or Youth Division, depending on Khalid's age
 - g. Youth Division
 - h. Civil Division
 - i. Traffic Division
2. Examples will vary. Compare yours with the samples that follow.
 - a. *A man is charged with the possession of narcotics.*
 - b. A woman's new leather jacket is ruined at the dry cleaner's.
 - c. A divorced man wants increased access rights to his children.
 - d. A man is ticketed for speeding when his speedometer indicates he's within the limit.
 - e. A 13-year-old girl is charged with break and enter.
 - f. A serious motor-vehicle collision causing injury results in a civil suit for over \$100 000.
 - g. The defendant in the case mentioned in the answer to question f. wants to appeal the damages the trial court has ordered her to pay the plaintiff.
3. The Court of Appeal hears only select cases from all over the province. More centres are unnecessary.

4. a. Since the Council is a federal organization, the Federal Court of Appeal would be the only court of appeal it could use. They couldn't file an ordinary civil lawsuit because there was no infringement on any one individual's rights.
 - b. If this situation existed, only one viewpoint on important issues concerning Canadians would be given significant circulation across the country. The result would be much like censorship in a dictatorship: the public would get only one side of the issues.
5. Compare your chart with this one.

Situation	Court
A 14-year-old commits a theft.	PC, Youth Division
A case arises involving Canada's railroad system.	Federal Court of Canada
The Court of Appeal hears a case involving important legal principles, but no one is satisfied.	Supreme Court of Canada
A woman decides to fight a speeding ticket.	PC, Civil Division
A man accidentally backs his car over a neighbour's mountain bike.	PC, Traffic Division
A party to a case tried in the Court of Queen's Bench is unhappy with the decision.	Court of Appeal
A car manufacturer builds a car with faulty brakes, and a consumer is disabled in a resulting accident.	Court of Queen's Bench

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Lesson 3: Young People and the Law



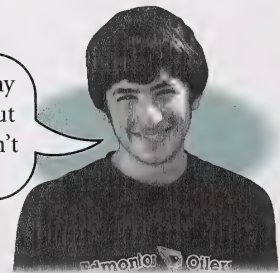
The Youth Criminal Justice Act—A First Look

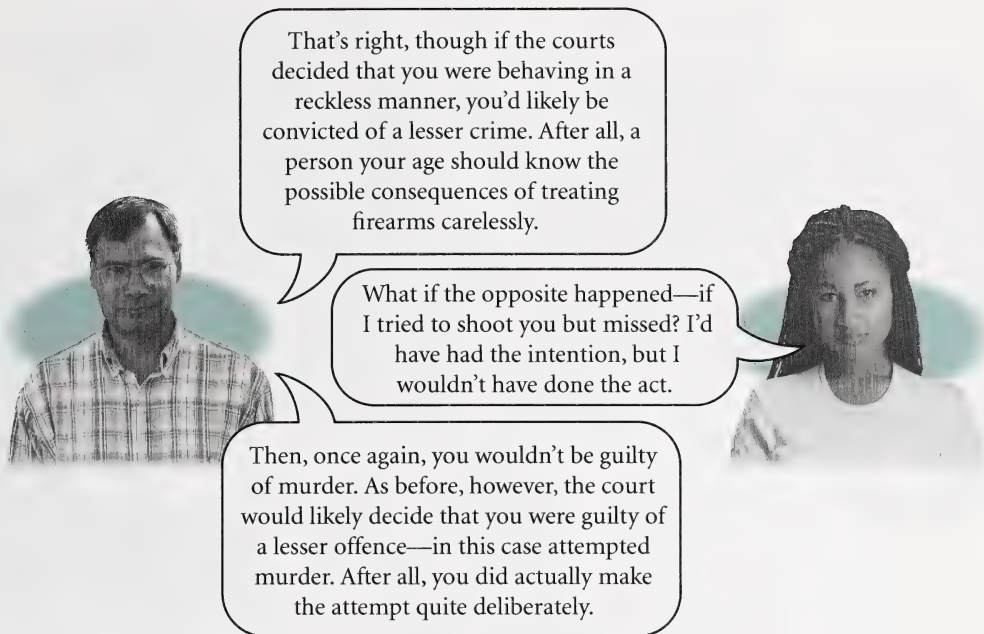
A five-year-old girl sets fire to the neighbours' living-room rug to watch it burn. Most Canadians would agree that what she did was wrong; but few people, if any, would consider arresting the child and putting her in jail. Instead, most people would be wondering who was supervising her at the time and how she was able to get access to the matches. It seems obvious that different standards must be applied to children's behaviour than to that of adults, and this is especially true in the area of criminal law.

A fundamental principal of criminal law is that two things must be present for something to be considered a crime:

- a wrongful action (called by the Latin expression *actus reus*)
- a clear intention to commit that action or, at the very least, an understanding of the harm your action might cause (called by the Latin expression *mens reus*)

So if I accidentally shoot you while cleaning my gun, I've committed a wrongful act but without any intention of doing it. That means I wouldn't be guilty of murder?





Children, though they can certainly do things most people would consider wrong, can't, it's generally felt, form the clear intention of doing something wrong. They lack the ability to comprehend the consequences of their acts. The little girl who sets fire to the neighbours' rug isn't intending to cause trouble, and she almost certainly doesn't understand the damage she might be doing. She's just innocently curious to see what will happen. This conviction that children can't be expected to be as accountable for their actions as adults explains the fact that our legal system treats them differently. In Canada today, no one under the age of 12 can be charged with a crime.

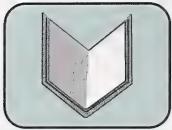
Of course, the line dividing children from adults isn't exactly a clear one, and young people who are no longer children but not quite yet adults must be dealt with fairly. It's this group of people, between the ages of 12 and 17, inclusive, who are covered in Canada's *Youth Criminal Justice Act*. This act, which was passed in 2002, is based on the premise that young people have the same rights as adults under the *Canadian Charter of Rights and Freedoms*. It also holds youths who commit crimes responsible for their actions but outlines different procedures and penalties for them in the belief that as young people they need additional rights and protection.

The following chart will make clear the three levels of criminal responsibility in Canada.

Levels of Criminal Responsibility		
Adults	18 years and older	fully legally responsible
Youths	12 to 17 years	partially legally responsible
Children	birth to 11 years	not legally responsible

Note carefully that what is and isn't considered criminal behaviour is the same for youths as it is for adults. It's governed by the *Criminal Code* and a few other federal statutes. The *Youth Criminal Justice Act*, by contrast, is about how to deal with young people who are charged with criminal offences.

The *Youth Criminal Justice Act* was passed in an attempt to rectify what some people felt were shortcomings in the statute that preceded it—the *Young Offenders Act* of 1984. The *Young Offenders Act*, in turn, had replaced the *Juvenile Delinquents Act* of 1908. As you can see, Canadian society has been wrestling for a long time with the problem of how to treat young people accused of criminal offences.

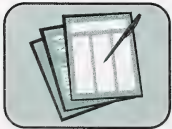


To get a bit more background on the history of dealing with youths charged with criminal offences in Canada—as well as the basic principles of the *Youth Criminal Justice Act*—open your textbook to page 284 and read through to the “Review Your Understanding” questions on page 287. Be sure to read “Looking Back: *The Juvenile Delinquents Act*” on pages 284 and 285. When you’ve completed these readings, answer the following questions.

1. a. How did the *Juvenile Delinquents Act* of 1908 change the way young people convicted of criminal offences were treated?

b. Explain some of the perceived flaws in the *Juvenile Delinquents Act* that resulted in its being replaced by the *Young Offenders Act* in 1984.
2. In your own words, outline **four** ways in which the *Youth Criminal Justice Act* attempts to rectify problems with the *Young Offenders Act*.
3. The *Youth Criminal Justice Act*, as you’ve seen, stresses rehabilitation. In the case of non-violent offenders especially, the hope is to supply the help needed to divert youths from a life of crime. While life in prison often reinforces criminal tendencies, it’s hoped that rehabilitation programs can direct young people away from crime before it becomes a way of life.

What are your thoughts on this matter? If possible, take sides and debate the issue with a partner or in a classroom. Otherwise, write out your ideas in a position paper of no more than a page. Be sure to defend your ideas.
4. While the *Youth Criminal Justice Act* stresses rehabilitation, it also responded to worries that the *Young Offenders Act* was too soft on youths convicted of violent crimes. Explain how the new statute has toughened things up for violent young offenders.





Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Going Further

The "Introduction" in the textbook readings you've just completed raises a question that's very much in the media these days: Was the *Young Offenders Act* too lenient? More broadly, the question might be asked whether the courts and the laws are too lenient on young people altogether. You may already be familiar with some of the provisions in the *Young Offenders Act* or the more recent *Youth Criminal Justice Act*; you may even know some people who have been directly affected by one of these statutes. If so, what are your thoughts at this point? Are the laws too lenient? Do we need tougher laws for young criminals?

If possible, discuss or debate this question with classmates; otherwise, express and defend your own ideas. If you don't know enough about the Act, don't worry; you'll soon be learning more.



I like most of what I hear about the *Youth Criminal Justice Act*, but personally I think that the cut-off point between young offenders and adults should be lower than 18. I mean, kids a lot younger than that know exactly what they're doing and what the consequences will be.



But we don't allow minors to vote or buy alcohol and all sorts of other things. How can society deny them rights like these and then expect them to be fully accountable at law for their actions?



Good point, but note that the *Youth Criminal Justice Act* does recognize that people under 17 should be held accountable for serious crimes. That's why now anyone over the age of 14 accused of a violent crime can be sentenced as an adult.



The *Youth Criminal Justice Act*, as you've seen, starts with the idea that youths should be held responsible for their criminal acts; however, the rules and procedures still take into account that these are young people who have made mistakes. Thus, in most cases they're treated differently from adults, who are expected to be fully responsible for their actions.

The *Youth Criminal Justice Act* is a federal statute; it applies to youths who break laws passed by the federal government, such as those in the *Criminal Code* and the *Controlled Drugs and Substances Act*. Each province in Canada, however, has its own legislation dealing with young people charged with (or convicted of) offences. Thus, Alberta has a *Young Offenders Act* of its own. If you look at the statutes of Alberta, you'll find an act with this name. Like the old federal *Young Offenders Act*, the provincial act first became law in 1984, but unlike the federal statute, the Alberta *Young Offenders Act* is still in effect but applies to youths who break provincial laws. In this course it's the current federal statute—the *Youth Criminal Justice Act*—that you'll be looking at, but because of possible confusion, you should be aware of Alberta's *Young Offenders Act*. Don't confuse it with the old federal statute.

The Youth Criminal Justice Act—A Closer Look



ALBERTA PUBLIC AFFAIRS BUREAU

Your textbook goes into considerable detail explaining the various provisions of the *Youth Criminal Justice Act*. But because a detailed investigation of this sort lies beyond the scope of this course, following, in summary form, you'll find some of the most important provisions of the statute. Read through the provisions carefully.

As you've seen, youths have the same rights and freedoms that all Canadians have under the *Canadian Charter of Rights and Freedoms*. These include the right to be told why they're being detained or arrested, the right to free legal advice, and the right to apply for release on bail.

extrajudicial- sanctions

programs:
programs whereby
non-violent,
first-time young
offenders can
admit to having
committed a
crime and then
do something to
compensate for it
rather than go to
court

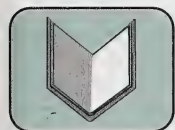
Parents or guardians must be told as soon as their child has been detained or arrested by the police. When youths are convicted of crimes, their parents or guardians must be allowed to provide sentencing input.

First offenders who have committed a non-violent crime and who don't seem likely to reoffend are given the chance to participate in **extrajudicial-sanctions programs**. These programs involve things like returning stolen goods, apologizing to victims, doing community service, and receiving drug and alcohol counselling.

bail: money held to guarantee that an accused will appear at a later hearing

foster home: the home of an existing family into which a youth charged with a crime may be temporarily placed for care and rehabilitation

house arrest: a court order requiring a person to stay at home during set periods of time



Youths charged with offences can apply for **bail**, but usually they'll be released into the custody of a parent or guardian. They may be temporarily placed in foster homes or put under **house arrest**.

Youths don't have the right to decide on the court system in which they'll be tried. Unless a case is sent to adult court, trials will be in the Youth Division of the Provincial Court.

The names of most youths charged with crimes cannot be made public. But the media may report the names of those aged 14 to 17 who are convicted of serious violent crimes.

If youths 14 years or older are charged with serious violent crimes or are repeat offenders, cases may be transferred to adult court. This means that they'll be tried—and probably sentenced—as adults. In cases like these, special hearings are called before the trial to decide whether or not to transfer the case. Victims and parents can present their views.

5. Some people have objected to the fact that the *Youth Criminal Justice Act* allows judges to decide which cases to transfer to adult court. Think about this issue and suggest a reason for this objection. In your response, explain—and defend—your own views.
6. Read the case *R. v. C. G. M.* on page 295 of your textbook; then answer the following questions.
 - a. Why are initials rather than names used in this case? Would this still be done today?
 - b. Why did the judge transfer this case to adult court?

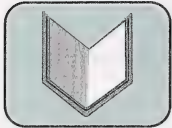
Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Youth Court judges have more options open to them in sentencing young offenders so that the individual circumstances of each convicted youth can be taken into account. Judges usually place more emphasis on rehabilitation than they would when sentencing adults because it's believed the likelihood of success is greater.

A youth convicted of a minor first-time offence may be given an absolute discharge, but a record of the conviction is kept and can be used in deciding sentencing if the youth is convicted of another offence later on.



probation: a criminal sentence that gives an offender some degree of freedom (rather than a prison term) but that requires the person convicted to be supervised and to meet certain conditions for a stipulated period of time



Other youths convicted of offences may have to pay a fine (and that means the youths themselves, not their parents or guardians), compensate a victim, or do community service. Sometimes a youth will be put on **probation**; this means that he or she will be placed under the authority of a probation officer for up to two years. Probation orders differ in what they require; for a look at standard conditions of a probation order, see the small beige box on page 300 of the textbook.

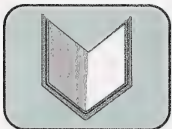
7. Do you think that parents should be responsible for the fines that courts may impose on their children, or should the children alone be liable to pay them? Be sure to give reasons for your answer. If possible, debate this question with a study partner.



Turn to the Suggested Answers at the end of this lesson and read the helpful hints suggested there.

open custody: a criminal sentence that involves comparatively light supervision and some access to the community

group home: a home set up to house a number of young offenders as they work off their sentences



Youths convicted of serious offences may be taken into custody. The most lenient form of custody is called **open custody**, and it usually involves living in a foster home or a **group home** or participating in something like a residential-wilderness program designed to teach self-reliance, a respect for authority, and an ability to work with others.

More severe is secure custody, whereby youths convicted of the most serious offences or who are repeat offenders are placed behind bars—often in special wings of adult jails where they can be completely separated from other prisoners. Even here, the chief objective is rehabilitation.

Going Further

It's possible that, as a young person yourself, you'd like to read through the material on pages 287 to 303 of your textbook carefully in order to get a real understanding of the *Youth Criminal Justice Act*.

Of course, if you'd like something even more challenging to do, you might enjoy examining the Act itself. The following Internet site, operated by the Department of Justice Canada, will give you the complete text of this statute. You'll have to deal with the legal language used in all legislation, but the reward is that you'll be learning from the statute itself—not someone else's interpretation of it.

<http://laws.justice.gc.ca/en/Y-1.5/text.html>

For a great deal more information on the *Youth Criminal Justice Act*, here's a website that will direct you to all sorts of other Internet resources:

<http://www.acjnet.org/nahome/default.aspx>

In the "Select a keyword" field, go to "Youth justice." In the Language field, select "French" or "English" and then select "Canada/Federal" in the "All Jurisdictions" field on the right. Then run your search. You'll turn up a variety of sites that are full of helpful information.

8. Before finishing up Lesson 3, here's one last review question that tests your mastery of some of the basics of the *Youth Criminal Justice Act*. Take the test and see how well you do. Simply fill in the blanks in the following sentences as they relate to the *Youth Criminal Justice Act*.

- a. The *Youth Criminal Justice Act* deals with criminal actions committed by

youths aged _____ to _____, inclusive.

- b. The *Youth Criminal Justice Act* was passed in the year 2002, replacing the

_____ Act.

- c. According to the *Youth Criminal Justice Act*, youths charged with crimes must be informed of their

_____.

- d. The Act stipulates that the

_____ of a youth charged with a crime be notified as soon as possible.

- e. Youths thought to be at risk of reoffending, may be placed in

_____ homes while awaiting trial.

- f. Young offenders aged _____ to _____ who are charged with violent crimes may have their cases tried in adult court.

- g. _____ programs allow young offenders accused of non-violent crimes to do something to make up for them rather than go through a trial.

- h. According to the *Youth Criminal Justice Act*, with certain exceptions, it's forbidden to publish the _____ of youths charged with crimes.



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Lesson 3 has given you a brief look at Canada's *Youth Criminal Justice Act*. If you're a high school student of typical age, this statute may interest you more than most other laws. If you'd like to learn more, try the suggestions in the preceding Going Further box.

In the next lesson—the last in the course—the focus will again become somewhat more general, and you'll look at a sampling of criminal activities that you should be aware of.

Going Further



To finish up this lesson you might find it interesting to take a look at page 294 of your textbook; it discusses the 1999 school shooting that took place right here in Alberta. The Taber shooting was covered by the news media at great length, so it's likely that you may have heard about it.

The discussion in your textbook raises some interesting questions about the protections offered to young offenders in Canada. Read the discussion and think about the questions that follow it. Bear in mind that because the event occurred in 1999, the youth in question was tried under the *Young Offenders Act*.

Assignment

Now open Assignment Booklet B, turn to the Section 3 Assignment, and answer questions 5 and 6.

Suggested Answers

1.
 - a. The chief objective of the *Juvenile Delinquents Act* was to rehabilitate young offenders rather than to punish them. They were treated as victims, not criminals.
 - b. Treating young offenders as victims to be reformed often meant, in fact, that their legal rights were ignored. In court, they seldom had lawyers, and because there were few guidelines for sentencing, sentences were all over the map in terms of harshness. Further, the word *delinquency* itself was defined so vaguely that youths could be charged even for "offences" like coming home late or skipping school. Once convicted, a young offender could be sent to a correctional institution for an indefinite period of time; it was up to those in charge to decide when the youth had been sufficiently rehabilitated to be released back into society.
2. Wordings will vary, but essentially the four principal ways in which the new *Act* attempts to rectify problems in the old one are as follows:
 - Accountability, responsibility, and consequences for all youth crimes are promoted.
 - Long-term solutions are sought and social values like respect and responsibility are stressed.
 - International and national standards for protecting human rights are respected.
 - The system is more streamlined and flexible.
3. Responses will vary. This issue has been the subject of an ongoing debate in society for a very long time. Whatever position you took, were you able to defend your ideas with reasons and arguments?
4. The *Youth Criminal Justice Act* imposes much more severe penalties for those convicted of violent crimes. Now, youths over the age of 14 charged with violent crimes can be tried and sentenced in adult court. And Youth Courts can impose adult sentences for crimes punishable by more than two years in jail. After serving time in custody, youths must put in additional time under supervision as they integrate back into the community.

5. Responses may vary somewhat, but some people believe that allowing judges this discretion means that youths charged with the same crimes are being treated differently. Naturally, some judges stress rehabilitation while others put more emphasis on public security and maintaining law and order; and these differing values can result in very different sentences for young offenders. Those in favour of letting judges decide how some cases will be tried, however, point out that it helps assure that individual differences are taken into account for each case involving a young offender.
6. a. Initials are used because this is a case involving a young offender, whose identity had to be kept protected. This may have confused you because this case involves a 15-year-old accused of a violent crime, and in these cases names can now be reported. But this case, from the year 2000, was carried out under the *Young Offenders Act*, not the *Youth Criminal Justice Act*.
- b. The case was transferred because of the seriousness of the offence, the fact that it was a brutal, premeditated crime, and the need of the public to be protected from a repetition.
7. Responses will vary. On the one hand, making parents responsible might help ensure that they take more care in supervising and controlling their children—perhaps even in raising them with values that respect community standards. On the other hand, it might decrease the impact of sentences on the people who commit the crimes while unfairly penalizing innocent parents.

Did you give reasons to support your ideas?

8. a. The *Youth Criminal Justice Act* deals with criminal actions committed by youths aged **12 to 17**, inclusive.
- b. The *Youth Criminal Justice Act* was passed in the year 2002, replacing the *Young Offender's Act*.
- c. According to the *Youth Criminal Justice Act*, youths charged with crimes must be informed of their **Charter rights**.
- d. The *Act* stipulates that the **parents** of a youth charged with a crime be notified as soon as possible.
- e. Youths thought to be at risk of reoffending, may be placed in **foster** homes while awaiting trial.
- f. Young offenders aged **14 to 17** who are charged with violent crimes may have their cases tried in adult court.
- g. **Extrajudicial-sanctions** programs allow young offenders accused of non-violent crimes to do something to make up for them rather than go through a trial.
- h. According to the *Youth Criminal Justice Act*, with certain exceptions, it's forbidden to publish the **identities** of youths charged with crimes.

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Lesson 4: Crimes and Criminals



You probably spend a good deal of time at this stage in life thinking about what you're going to do for a living when you've finished school. Has being a career criminal ever entered your mind? Hopefully, you answered that question with a resounding *No!* The fact is that virtually nobody sets out in life with the intention of becoming a criminal—and yet our jails are full. Why? People can fall into criminal activities for different reasons, of course, and doing so may be easier than you think. This lesson will run through a sampling of activities that could make you a criminal and, perhaps, even land you in prison.

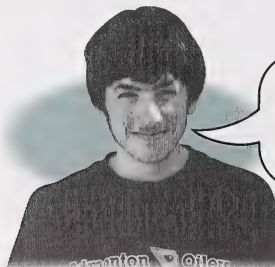
Offences Against People

Offences against people include violent crime in which the victim is threatened, endangered, hurt, or killed. These offences account for approximately 10 percent of all crimes reported annually. The most violent offence against another person is, of course, murder, but what about more common offences?

Assault

assault: as a criminal offence, the deliberate application of force to another or the threat to apply it; as a tort, the threat of applying force to another

The legal definition of **assault** in Canada is very broad. It includes intentionally using force against another person, threatening someone, and displaying a weapon when interfering with another person's movements.

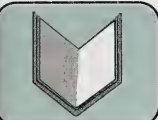


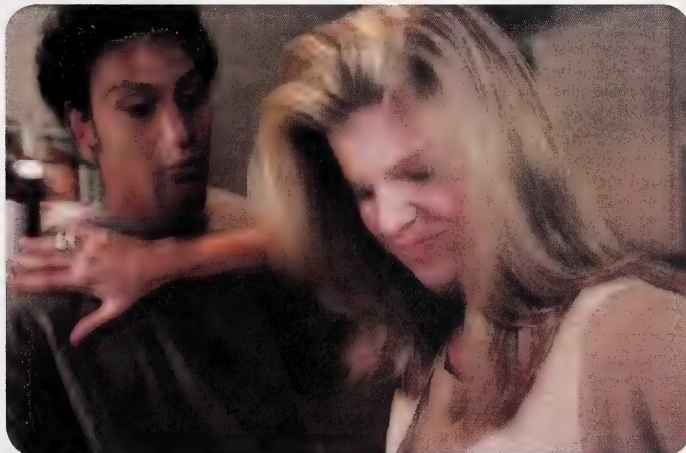
You mean that if I just threaten you but I never actually touch you, I'm committing assault?



It is if your words are accompanied by a threatening gesture—like shaking your fist. And if you simply shove or slap me, you're also committing an assault. If you just threaten me verbally—over the phone, perhaps—with no physical gestures, you're committing another offence called *uttering threats*.

Shaking a fist at another person, pushing someone—even spitting at a person—can be an assault. Of course, as you know, for an act to be criminal there must be an intent (or, in some cases, just an awareness of the likely consequences). If an action is accidental, careless, or the result of a reflex response, it's not an assault.

- 
1. Read the material under the heading “Assault” on pages 133 and 136 of your textbook. Then explain the difference between the three levels of assault:
 - a. assault
 - b. assault causing bodily harm (in the *Criminal Code* called *assault with a weapon or assault causing bodily harm*)
 - c. aggravated assault
 2. Think of any incidents in your life where a charge of assault could have been laid against some individual. Examples might include incidents occurring during sporting events, schoolyard fights, and parties that got out of control. Do you feel that situations like these warrant criminal charges? Why or why not?



Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

The penalties for committing assault vary with the severity of the incident. Simple assault convictions can result in imprisonment for up to a maximum of five years as well as a hefty fine. A conviction for assault causing bodily harm can entail up to ten years in prison along with a fine, while aggravated assault can put a person behind bars for up to 14 years.

Have you ever threatened someone or shaken your fist at another person? Could you be considered a criminal?



Sexual Assault

A number of sexually related offences that used to be in the *Criminal Code* have now been replaced with the offence of *sexual assault*. One of these was *rape*, a term that no longer has legal relevance in Canada but that is still sometimes used in everyday speech. There are three levels of sexual assault:

- assault in relation to sexual conduct (for example, molesting)
- sexual assault with a weapon or sexual assault causing bodily harm
- aggravated sexual assault (in which the perpetrator injures or endangers the life of the victim)

3. Turn to page 136 of your textbook and read the material under the heading “Sexual Assault” on pages 136 to the top of 138. Then answer the following questions.

- a. According to the *Criminal Code*, can a person who helps another person commit a sexual assault be guilty of the second level of sexual assault?
- b. What is the maximum penalty for the second level of sexual assault?
- c. Sexual-assault cases often turn on the question of whether or not the alleged victim consented to the act. Can an accused escape conviction simply by never asking the victim if consent has been given?

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.



Offences Against Property



theft: taking another's property without consent knowing that it belongs to someone else

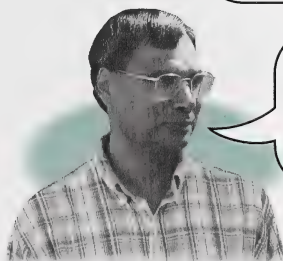
In the eyes of society, offences against property aren't as serious as offences against people. Still, many property offences are considered criminal offences, and some carry very severe penalties. A few of the most common ones will be discussed in what follows.

Theft and Robbery

Taking or using property that belongs to another person without that person's permission is considered **theft** under the *Criminal Code*. It makes no difference whether the item was taken permanently or temporarily "borrowed."

So let's say I go to your house to borrow a hammer and find your garage door open but you're not home. If I borrow the hammer anyway, it's a criminal act?

That's right, it's theft under \$5000—unless you thought it was your own hammer you were taking back. In that case, there was no intent to take another's possession.



Theft under \$5000 carries a maximum penalty of two years in jail, while theft over \$5000 can net you up to ten years.

robbery: theft accompanied by force or threats

The crime of **robbery** is much more serious than theft because it includes features like threats, violence, and/or the use of weapons, and it involves a confrontation with the owner of the property. The maximum penalty for robbery is life in prison.

4. a. Chances are you've never been guilty of robbery, but you may have inadvertently been guilty of theft by borrowing something and intending to return it later. If so, describe the situation.
- b. Do you agree that actions of this sort ought to be considered crimes? Explain why or why not.



5. You've seen that the difference between theft and robbery is that the latter involves violence, threats, and/or the use of weapons. Imagine, then, that a woman enters a bank and approaches a teller. She politely informs the teller that she has a gun and demands money. Immediately after the robbery, the woman is arrested and it's discovered that she has no gun.

Can this woman be charged with robbery? Explain your answer.

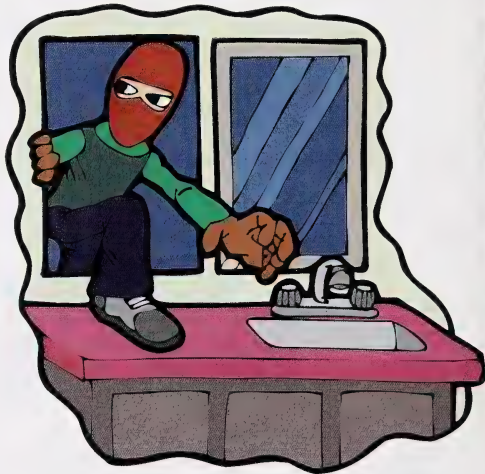
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and compare your answers with the ones given there.

Possession of Stolen Goods

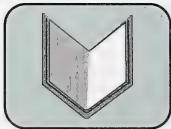
Were you aware that simply possessing something that you know was stolen is a serious criminal offence? And if the object happens to be a motor vehicle and the serial number has been removed, the law will assume that the vehicle was stolen. What this means is that you have to be very careful about goods you obtain; if you have reason to believe that they may have been stolen, stay away from them.

Break and Enter

It's a basic belief of our society that people have a right to feel secure in their homes. In days gone by, this belief was expressed in the adage "A man's home is his castle." If a person is found in another person's home with the intention of committing an offence, even if that person didn't have to break in, he or she can be charged with unlawfully being in a dwelling. Of course, if the person broke into the building, the crime is that much worse. In fact, simply possessing housebreaking tools is a criminal offence.



6. At the bottom of page 103 of your textbook you'll see the *Criminal Code* description of the crime of break and enter. What penalties does the *Code* lay down for people convicted of this offence?
7. Stian and Ricardo are friends. Stian leaves his stereo system at Ricardo's house over the weekend. On Monday, Ricardo and his family leave for a holiday, and Stian wants his stereo back. He goes to Ricardo's home, pries open a basement window, climbs in, and retrieves the stereo. Unfortunately, he sets off the home's security system and the police catch him with the stereo. They charge him with break and enter and theft under \$5000. Will these charges likely stick? Explain why or why not.




break and enter:
to enter, with
the intention of
committing an
indictable offence,
a premises owned
by another without
permission by
breaking or opening
anything closed

Turn to the Suggested Answers at the end of this lesson
and compare your answers with the ones given there.

Mischief

When someone deliberately damages or destroys someone else's property, or interferes with his or her enjoyment of the property, that person is committing the crime of mischief. As you'd expect, the penalties imposed for this offence depend upon the severity of the act. The maximum penalty for mischief is imprisonment for ten years, unless the act endangers someone's life, in which case life imprisonment is possible—a pretty severe punishment for an offence with such an innocent-sounding name.


mischief: damage to another person's property or interference with another person's use of his or her property

- 
8. The *Criminal Code's* description of mischief appears on page 154 of your textbook ("The Law: The Criminal Code"). Why do you suppose subsection (1.1) was included?
 9. Have you and/or your friends ever gone out on Halloween, grad night, or at any other time and spray-painted a wall, thrown eggs at cars, or committed any other acts of mischief? If so, do you consider yourself or your friends criminals? Why or why not?




Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Going Further



People accused of mischief—and other crimes—aren't necessarily acting from what are usually thought of as criminal motives. A few years ago, a group of animal-rights activists set more than 1500 mink free from a fur farm near Chatham, Ontario. The five members of the group were charged with break and enter, theft, and mischief exceeding \$5000. No damage was done to the farm during the raid, though in previous cases of a similar nature in the United States, fires had been set.

At least 400 of the 1500 mink released from the farm died of pneumonia or were run over on a nearby highway.



This case raises the ethical questions surrounding the raising of animals for fur and underlines the problems involved in sentencing people who commit acts like these activists. Do you believe that the people who committed this act should have been charged for what they did? Defend your answer. If possible, debate this question with a study partner or classmates.

Fraud

fraud: the intentional deception of someone so that the person sustains a loss

Fraud is the crime of intentionally deceiving someone so as to cause the victim a loss. One common example of fraud is knowingly writing cheques on a bank account that has insufficient funds to cover them. Telemarketing scams—something we hear about a great deal today—provide another example. As usual, the severity of the punishment for fraud depends on the amount of money defrauded. If the amount is over \$5000, the maximum punishment is ten years in jail.



- 10.** Mila wrote a cheque for payment of an outstanding bill. She thought that her paycheque from work had been automatically deposited into her account, but due to a computer error this hadn't yet happened. When the cheque she wrote bounced (that is, failed to clear her bank account because of insufficient funds), Mila was charged with fraud. Will she likely be able to present an effective defence in court? Explain your answer.
- 11.** Batool has a marketing scheme whereby she sends letters out to people telling them if they send her \$10 and a self-addressed envelope, they'll get rich quickly. When people reply to Batool's letters, she sends them a note telling them to send out letters like hers, asking for \$10, to other people.

Would the courts consider this fraud? Why or why not?

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Have you ever been part of a "chain letter"? If so, did you realize that if you send these letters through the mail it's considered fraud? Did you realize that you could be considered a criminal?

Motor-Vehicle Offences



Most people of high-school age have either recently got their driver's licences or are looking forward to getting them. This legal permission to operate a potentially lethal piece of machinery on public streets is one of the greatest responsibilities with which young people are entrusted; it's terribly important that this responsibility be taken seriously. One part of this responsibility is learning something about the law regarding the operation of motor vehicles.

Going through the various motor-vehicle offences in detail is beyond the scope of this course; but if you open your textbook to page 180, you'll see a chart outlining driving offences under the *Criminal Code* along with the penalties they involve.

Turn now to page 180 and examine the chart there. Don't worry about the legal terminology in the middle column (for example, *hybrid*, *indictable*, and *summary*), but do note the differences between first, second, and subsequent offences under *Driving while impaired*. Use the chart to answer the questions that follow.

12. a. Kyle has been convicted of impaired driving for the first time. What penalty can he expect to receive?

b. Two years later, having now had two convictions for impaired driving, Kyle is picked up once again. Though he's obviously very intoxicated, he refuses to take a sobriety test. What's the maximum penalty he can receive?
13. Renée is convicted of impaired driving causing death. What will her maximum penalty be?

Turn to the Suggested Answers at the end of this lesson and compare your answers with the ones given there.

Take a look at the short case study *R. v. Hundal* on page 175 of your textbook. It should make it clear just how easy it is to get into serious trouble driving a motor vehicle. Being late for an appointment, becoming impatient with slow traffic, or simply getting into a bad mood can make an otherwise law-abiding citizen who never once contemplated committing a criminal act decide to run a light about to turn red. Ending up in prison for 14 years and acquiring a criminal record is quite a hefty price to pay—not to mention the guilt the driver would carry around for the rest of his or her life.



This lesson has introduced you to a sampling of criminal activities. Of course, some of the crimes discussed are more serious than others, but you may have seen yourself and your own actions reflected in one or two of the areas discussed; if so, knowledge of the laws involved should help you make better decisions in the future. What you've covered in this lesson is, of course, only the barest hint of the crimes and penalties laid out in statutes like the *Criminal Code*. If you'd like to learn more about Canadian criminal law, consider taking Legal Studies 3080.

Assignment

Now open Assignment Booklet B, turn to the Section 3 Assignment, and answer questions 7 and 8.

Suggested Answers

1.
 - a. The first level, simply called *assault*, involves intentionally applying force to someone, threatening someone, or accosting someone while carrying a weapon.
 - b. The second level, called *assault causing bodily harm*, occurs when a person commits assault while having a weapon or causes bodily harm to the person assaulted.
 - c. The third level, *aggravated assault*, occurs when the victim of an assault is wounded, maimed, or disfigured, or his or her life is endangered.
2. Answers will vary. Sporting events are particularly difficult areas. Quite frequently, especially in hockey games, charges of assault are threatened if a player deliberately strikes and injures another player during a game. However, deciding just what is and what isn't a "deliberate" action can be very difficult in the heat of a game; after all, physical contact is a fundamental part of many hockey games. In professional games, the use of video cameras increases the chances that an assault charge will be laid.

Schoolyard fights are often considered "consensual." Two individuals determine that they're going to fight and others stand by and let it happen. However, charges may still be laid if the police feel that one person was forced ("coerced") into fighting.

3.
 - a. Yes, the *Code* reads "Every person . . . who . . . is a party to the offence with any other person, is guilty"
 - b. The maximum penalty is a prison sentence of 14 years.
 - c. No, this is considered "willful blindness." It won't stand up as a defence in court.
4.
 - a. Answers will vary. This is a "crime" of which many people are guilty.
 - b. Again, answers will vary. Can you see arguments for both sides? Were you able to express your views clearly and logically?
5. This case could certainly result in a charge of armed robbery (though it might be plea-bargained down to a lesser offence). The teller had reason to believe that the robber was armed and would likely fear for his or her life as a result. The degree of fear and apprehended danger must be considered.
6. The penalties are
 - imprisonment for life if the building involved is a private home
 - imprisonment for a term of up to ten years if the building isn't a private home
7. No, the charges shouldn't stick. Stian had no intention of committing an indictable offence (a severe criminal offence); he was merely taking back his own property. This lack of intention would mean that no break-and-enter offence had occurred. And because Stian took no one's property but his own, no theft had taken place either. Stian might, however, be found guilty of a lesser offence.
8. This inclusion no doubt reflects the prevalence and growing importance of computer crime.
9. Answers will vary. Did you present arguments to support your ideas?

10. Yes, Mila should be able to present a successful defence. Fraud must be intentional. Generally speaking, fraud with respect to NSF (not sufficient funds) cheques involves writing cheques on bank accounts that don't really exist or that have been closed. To accidentally bounce a cheque isn't committing the criminal offence of fraud.
11. Yes, this is fraud. Batool is knowingly tricking people into thinking that they'll receive something of value in return for their money.
12.
 - a. Kyle can expect a fine of not less than \$600 and a one-to-three-year prohibition from driving.
 - b. The maximum penalty Kyle can get is a five-year prison term.
13. Renée's maximum penalty will be a life sentence in prison.

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Section 3 Conclusion



Section 3 has introduced you to the topic of criminal and civil wrongs—topics explored in greater detail in more advanced Legal Studies courses. The section then went on to look at the country's court system and the treatment of young people suspected of criminal wrongs. Section 3 finished up with a brief overview of some of the more common criminal offences and the penalties they involve.

One thing that should have become clear in this section is how easy it is for people who think of themselves as decent, law-abiding citizens to suddenly find themselves in court. Knowledge of the law—knowledge that you've begun to acquire in this course—should help you avoid this situation and know how to deal with problems as they arise. Of course a little knowledge can be a dangerous thing; what you should do now is work at increasing your understanding of Canada's laws and legal system so that you can maximize your ability to function as an informed, aware citizen.

LEGAL STUDIES 1020

SUMMARY



In Legal Studies 1020 you've examined the basic rights and responsibilities of Canadians. You've also looked at the fundamentals of laws governing the workplace and the principles of criminal and civil law. In particular, you've focused on young people and the law—the rights of minors, the rights of students, and the *Youth Criminal Justice Act*. This course is intended to be a very brief introduction to these topics; further courses at more advanced levels will give you a much better understanding of the topics you've now been introduced to.

Now that you've almost completed this course, do you feel that you have a better understanding of Canada's legal system and the role you play as a Canadian citizen? Do you have an increased desire to learn more about the laws of your country? If so, the course has been a success. Even if you don't do any future work in Legal Studies, you should try to pay attention to news stories that concern legal issues. You'll be surprised how rapidly you'll increase your understanding of Canada's legal system.

CONGRATULATIONS

Congratulations on completing Legal Studies 1020! We hope you've enjoyed taking this course and that you've found it both interesting and rewarding. If you have, perhaps you'll consider taking another Legal Studies course in the future.



APPENDIX



- Glossary
- Documents

Glossary

affirmative-action program: a program offered by an employer, a learning institution, or some other body designed to increase the number of people in the organization belonging to specific groups, where traditionally those groups have been underrepresented and considered disadvantaged

age of majority: the age at which a person can undertake legal obligations (in Alberta, 18)

assault: as a criminal offence, the deliberate application of force to another or the threat to apply it; as a tort, the threat of applying force to another

bail: money held to guarantee that an accused will appear at a later hearing

beneficiary: a person named to receive a benefit—for example, a bequest under the terms of a will

bona fide occupational requirement: a legitimate job requirement that makes it reasonable for an employer to hire people from some groups over others

break and enter: to enter, with the intention of committing an indictable offence, a premises owned by another without permission by breaking or opening anything closed

bylaws: written laws passed by municipal governments

capacity: the legal ability to enter into a valid contract

civil law: the branch of law that governs the relations between individuals

civil rights: rights guaranteed citizens of a country; in Canada, rights guaranteed by the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*

common law: the body of law that gradually developed in courts in the English-speaking world based on judges' decisions

constitution: a document stating the fundamental rules according to which a country is governed and other laws are made

constructive dismissal: the forcing of an employee to resign through tactics like demotion, unreasonable job demands, and transferral to a less-desirable location

crime: an act forbidden by law and for which the government has the power to punish

criminal law: the branch of law that sets out certain acts as crimes and punishes those acts

damages: money awarded by a court to a plaintiff in a civil suit to compensate for a wrong suffered

defendant: the party against whom a legal action is brought in civil court or the party charged in a criminal case

discrimination: the practice of treating some people differently from others because of prejudice toward a group to which they belong

duty to accommodate: the legal requirement of an employer to take reasonable steps to accommodate the needs of employees or potential employees so as not to discriminate unfairly against certain groups

employment insurance: a system whereby working people make regular financial contributions to create a pool of money from which contributors can withdraw if they lose their jobs

extrajudicial-sanctions programs: programs whereby non-violent, first-time young offenders can admit to having committed a crime and then do something to compensate for it rather than go to court

foster home: the home of an existing family into which a youth charged with a crime may be temporarily placed for care and rehabilitation

- fraud:** the intentional deception of someone so that the person sustains a loss
- group home:** a home set up to house a number of young offenders as they work off their sentences
- harassment:** unwelcome behaviour toward another (who is often in a subordinate position)
- house arrest:** a court order requiring a person to stay at home during set periods of time
- human rights:** rights that protect people from discrimination from others in certain areas of life
- indictable offence:** a serious criminal offence involving more complex trial procedures
- infant:** in legal terminology, a minor
- labour union:** an organization that represents employees in a company or industry and bargains for them with their employer(s)
- legislation:** a law or laws that have been passed by a governing body like Alberta's Legislative Assembly or the Parliament of Canada
- minor:** anyone under the age of majority
- mischief:** damage to another person's property or interference with another person's use of his or her property
- necessaries:** goods and services considered necessary for a person's health and well-being
- non-competition clause:** a clause in an employment contract designed to limit competition—usually by restricting where and when an employee may work after leaving the current employer
- open custody:** a criminal sentence that involves comparatively light supervision and some access to the community
- plaintiff:** the party bringing a legal action against another party in civil court
- poisoned work environment harassment:** employment harassment in which one person is subjected to hostility and rejection by co-workers because of some perceived difference
- precedent:** a previous court decision that lower courts must follow when making decisions in similar cases
- probation:** a criminal sentence that gives an offender some degree of freedom (rather than a prison term) but that requires the person convicted to be supervised and to meet certain conditions for a stipulated period of time
- quid pro quo harassment:** employment harassment that involves a person in a position of authority demanding favours in return for fair or preferential treatment
- right:** a power or privilege granted by the law
- robbery:** theft accompanied by force or threats
- statute:** a specific law or act passed by a governing body like Alberta's Legislative Assembly or the Parliament of Canada
- theft:** taking another's property without consent knowing that it belongs to someone else
- tort:** a civil wrong other than a breach of contract
- workers' compensation:** a system whereby benefits are paid to workers injured on the job or suffering health problems related to the workplace
- wrongful dismissal:** the termination of employment by an employer either without just cause or without giving reasonable notice

Employment Standards Guide

This guide was prepared to provide general information for employees and employers. If you have further questions or require more information, please contact Employment Standards. Our offices are listed on the back of this pamphlet.

Minimum Wages

- The general minimum wage is \$5.90 per hour.¹
- For certain salespersons the minimum wage is \$236.00 per week.
- School bus drivers, an adolescent (12, 13, or 14 years old) employed on a day when required to attend school and part-time employees in certain non-profit recreation or athletic programs are entitled to not less than 2 hours pay at the minimum wage if they are employed for less than 2 hours.

All other employees are entitled to not less than 3 hours at the minimum wage if they are employed for less than 3 hours and they are available to work for the full 3 hours.

- A deduction for a meal or lodging cannot reduce the minimum wage by more than the following amounts:

\$1.95 per meal consumed and
\$2.60 per day of lodging.

Payment of Earnings

Employees must be paid not later than 10 days after the end of each pay period.

When employment ends:

1. If the employer terminates an employee's employment:
 - a) with notice and/or pay in lieu of notice—pay is due not later than 3 days after the last day of work;
 - b) and no termination notice is required to be given—pay is due not later than 10 days after the last day of work.
2. If the employee terminates their own employment:
 - a) by giving a termination notice—pay is due not later than 3 days after the last day of work;
 - b) and no termination notice is required to be given—pay is due not later than 10 days after the last day of work;
 - c) and failed to give the required termination notice—pay is due not later than 10 days after the date on which the notice would have expired had it been given.

Statement of Earnings and Deductions

Employees must receive a detailed written statement of earnings and deductions for their retention each pay period.

An employer may deduct from an employee's earnings, amounts permitted by an Act, regulation, judgement, order of a court or amounts personally authorized in writing by an employee.

No deduction can be made from an employee's earnings for (i) faulty workmanship, or (ii) cash shortages or loss of property if anyone other than the employee had access to the cash or property.

¹ Note that when this course went to print, Alberta's minimum wage was set to rise to \$7.00 an hour. This is likely the minimum wage in place as you take this course.

Hours of Work

Hours of work must be confined within a period of 12 consecutive hours in any one day. An exception to this requirement exists for employees in the geophysical exploration and oilwell servicing industries.

Hours of Rest

An employer must provide at least one day of rest in each week. Rest days may be accumulated for up to 4 weeks and given as consecutive days off within this 4 week period.

Employees must receive a 1/2 hour rest period, paid or unpaid, during each shift in excess of 5 consecutive hours of work. Some exceptions apply.

Overtime and Overtime Pay

In each week, hours worked in excess of 8 per day must be totalled and the number of hours worked in excess of 44 must be calculated. The greater of the two numbers are the number of hours to be paid at the overtime rate.

An employer must pay an employee overtime pay of at least 1.5 times the employee's wage rate for overtime hours.

Note: Some exceptions apply. Refer to the Employment Standards Regulation.

Overtime Agreements

Employees and employers may enter into a written overtime agreement. With an agreement, instead of overtime pay, employees receive time off with regular pay equal to the number of overtime hours worked.

Vacations and Vacation Pay

Employees are entitled to a minimum of 2 weeks' vacation with pay after 1 year of employment and 3 weeks' vacation with pay after 5 years of employment with an employer.

Monthly paid employees are entitled to vacation pay based on their current salary.

Employees paid other than by the month are entitled to 4% of their regular wages for vacation pay. After 5 years this increases to 6%.

Employees employed less than 1 year receive 4% of their regular wages for vacation pay on termination of employment.

Vacation pay may be paid at any time, but not later than the next scheduled pay day after the employee starts vacation.

On written request of an employee, the employer may grant an employee's annual vacation in periods of not less than 1 day. The employer has final say over the time when the annual vacation is to be taken.

Employees employed in the construction industry or brush clearing are entitled to 6% of their regular wages as vacation pay.

General Holidays and General Holiday Pay

In Alberta the following are general holidays: New Year's Day; Alberta Family Day; Good Friday; Victoria Day; Canada Day; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; and any other day designated as a general holiday by the employer.

Employees who have worked for an employer 30 days in the 12 month period before the holiday are entitled to general holidays and general holiday pay.

If an employee works an irregular schedule and there is doubt about whether a general holiday falls on a day that would normally have been a work day, review the 9 week period preceding the work week in which the general holiday occurs. If the employee worked on the same day of the week as the day on which the general holiday falls in at least 5 of the 9 weeks, the general holiday is to be considered a day that would normally have been a work day for the employee.

When the holiday falls on a regular work day and the employee is not required to work, the employee will receive a regular day's pay.

If employees are required to work on the holiday and the holiday is a normal day of work, they must receive 1.5 times their regular rate of wages for each hour worked in addition to receiving a regular day's pay. Alternatively, they may be paid their regular rate for each hour worked on the holiday and receive another regular working day off with pay.

If an employee is on a regular day off and is required to work on the holiday, the employee will receive 1.5 times the regular rate of pay for all hours worked.

If a general holiday falls during an employee's annual vacation, the employer must extend the employee's vacation by one day with pay. Alternatively, by agreement, the employer must provide an additional day off with pay before the employee's next annual vacation.

Employees employed in the construction industry or brush clearing receive 3.6% of their regular wages as general holiday pay.

Termination of Employment

Employees wishing to terminate their employment must give the employer a written termination notice of at least:

- 1 week, if employed more than 3 months but less than 2 years
- 2 weeks, if employed 2 years or more.

Employers wishing to terminate the employment of an employee must give the employee a written termination notice of at least:

- 1 week, if employed more than 3 months but less than 2 years
- 2 weeks, if employed 2 years but less than 4 years
- 4 weeks, if employed 4 years but less than 6 years
- 5 weeks, if employed 6 years but less than 8 years
- 6 weeks, if employed 8 years but less than 10 years

- 8 weeks, if employed over 10 years,

or

the wages the employee would have earned for the application period of notice,

or

a combination of written notice and the wages the employee would have earned for the applicable period of notice.

Some exceptions apply.

Maternity and Parental Leave

The *Employment Standards Code* provides mothers, fathers, and adoptive parents with parental leave. In addition, birth mothers are eligible for maternity leave. These leaves are available to parents of children born or adopted on, or after December 31, 2000.

Eligibility Requirements

Employees must have 52 consecutive weeks of employment with their employer to be eligible for maternity and/or parental leave under the Code. This applies both to full-time and part-time employment.

If a pregnant employee has less than 52 consecutive weeks of employment, and is therefore not entitled to maternity leave, an employer cannot arbitrarily lay her off, terminate her employment, or require her to resign because of pregnancy or childbirth. Under human rights law, employers are required to accommodate the health-related consequences of an employee's pregnancy and childbirth up to the point of undue hardship, regardless of how long she has worked for the employer. Contact the Alberta Human Rights and Citizenship Commission for further information of these rights and responsibilities.

Length of Leave

- Birth mothers can take up to 52 weeks of unpaid, job-protected leave from employment, made up of 15 weeks of maternity leave and 37 weeks of parental leave.

- Fathers and adoptive parents are eligible for 37 weeks of unpaid, job-protected parental leave. Adoptive parents can take parental leave when they adopt a child under the age of 18.

If both parents are employees, the 37 weeks of parental leave may be taken entirely by one of the parents, or can be shared between the mother and father. If the leave is to be shared, the employer must be notified.

Notice Requirements

- Employees must give their employers at least 6 weeks' written notice to start maternity or parental leave.
- Employees must provide at least 4 weeks' written notice to return to work or to change the date they will be returning to work. This notice must be provided at least 4 weeks before the end of the leave to which employees are entitled.
- If an employee fails to provide the required notice or fails to report to work the day after the leave ends, the employer does not have to reinstate the employee unless the failure to notify the employer is due to unforeseen or unpreventable circumstances.

Employment of Adolescents and Young Persons

Adolescents are persons 12 but under 15 years of age. They may be employed to:

- make deliveries for a retail store
- deliver newspapers or flyers, or
- be a clerk in an office or retail store, if the employment is not injurious to the adolescent's life, health, education or welfare. The parent or guardian of any adolescent must agree to the employment and provide written consent to the employer.¹

Adolescents can only work 2 hours on a school day and a maximum of 8 hours on a non-school day. They cannot work between the hours of 9:00 p.m. and 6:00 a.m.

Young persons are persons 15 but under 18 years of age. They cannot be employed between the hours of midnight and 6 a.m. at, or in connection with:

- any retail store selling food or beverages or any other merchandise,
- a retail business selling gasoline or other petroleum products, or
- a motel, hotel, inn, etc.

Employment is permitted in such premises between 9:00 p.m. and midnight if the employee works with and is in the continuous presence of at least one other individual 18 years old or older.

Young persons can be employed between midnight and 6:00 a.m. in establishments such as hospitals, manufacturing plants and nursing homes, but must be in the continuous presence of one or more adults and the employer must have the written permission of the young person's parent or guardian.

Farm Workers and Domestic

Farm workers are entitled to their agreed wages; notice of termination of employment; and maternity and parental leave. Domestic employees are entitled to minimum wage; general holidays and general holiday pay; vacations and vacation pay; notice of termination of employment; maternity and parental leave; and a day of rest each week.

September 2003²

¹ Note that shortly before this course went to print, the right was extended to adolescents to work at more jobs in the restaurant and food service industry.

² Employment Standards, *Employment Standards Guide* (Edmonton: Alberta Human Resources and Employment, September 2003). <<http://www3.gov.ab.ca/hre/employmentstandards/publications/pdf/ESGuide2003.pdf>> (5 February 2004) Reproduced by permission.

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